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**The “politick personality”
Edmund Burke’s Political Ideas and the Lockean Inheritance**

By Ofir Zvulun Haivry
under the supervision of Professor Frederick Rosen
as partial fulfillment of requirements for the PhD degree
University College London
2005



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Abstract

This thesis seeks to describe aspects of Edmund Burke's political ideas, and to show that these ideas were presented as an alternative to the political ideas of John Locke. The dissertation is composed of two parts: the first outlines the historical context in which Burke's political ideas were set; the second studies Burke's own political concepts in opposition to those of Locke.

The first part of the dissertation is a detailed review and study of a large number of political writings from Burke's time, particularly (but not solely) from the decade after the outbreak of the revolution in France. This study presents the intellectual context of Burke's ideas, and shows these to have been widely perceived by contemporaries (both those opposing and supporting his views) as set against John Locke's political ideas.

The second part of the dissertation looks at Burke's own work. It charts all of Burke's known references to Locke or his works, and shows that all of those which relate to the latter's political ideas, were critical. It demonstrates that on top of various scattered cases, at least twice, in an important draft composed in 1782 and in a weighty memorandum of 1793, Burke decidedly and comprehensively challenged Locke's fundamental political principles, and pronounced them to be deficient and dangerous. It points out that Burke identified the source for the danger posed to political systems by Lockean ideas in their introduction of narrow judicial reasoning into political considerations. It proceeds to present the central themes of Burke's political theory, showing these to contrast (sometimes explicitly so) with Lockean ideas. It concludes with a study of Burke's idea of political sovereignty.

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On annotations, quotes and short titles

The method for annotations and quotes:

For modern texts, the full details are provided in the footnotes at the time of first appearance; subsequently, a shortened version appears, consisting of the surname of the author and one or more words from the title.

For pre-20th century texts, the same principles apply, with the following exceptions: in cases of famous works or of very long titles, only the first sentence appears; when the author's name did not appear on the original work or is only presumed, it is put within square brackets; if the author is unknown he is termed Anonymous within square brackets.

The edition of all texts is the first, unless otherwise stated.

The place of publication for all texts is London, unless otherwise stated.

In quotes all italic or bold lettering, all punctuation, spelling and capitals, are as in the original. Additions are explicitly noted by the use of square brackets. Quotes and references to Locke's *Two treatises* are by section (appearing as sec.) instead of page. The modern edition used for this text is the one edited by P. Laslett, for the "Cambridge texts in the history of political thought" series (Cambridge, Cambridge University Press, 1988).

The short titles for frequently mentioned works:

COR – T.W. Copeland (general editor), *The correspondence of Edmund Burke* (Cambridge, Cambridge University Press, 1967-1978), 10 volumes.

CST – W. Cobbett and T.J. Howell (editors), *Complete collection of state trials and proceedings for high treason and other crimes and misdemeanors from the earliest period to the present time (1809-1828)*, 33 volumes.

OED – J.A. Simpson and E.S.C. Weiner (eds.), *The Oxford English dictionary - second edition* (Oxford, Clarendon, 1998), 20 volumes.

PH – W. Cobbett and J. Wright (eds.), *The parliamentary history of England, from the earliest period to the year 1803. From which last-mentioned epoch it is continued downwards in the work entitled, "The parliamentary debates" (1806-1820)*, 36 volumes.

PW – G. Claeys (ed.), *Political writings of the 1790s* (William Pickering, 1995), 8 volumes.

ST – John Locke, "The second treatise of government, an essay concerning the true original, extent, and end of civil government" in *Two treatises of government* (1690).

WS – P. Langford (general editor) *The writings and speeches of Edmund Burke* (Oxford, Clarendon, 1981-), 10 volumes (vols. IV and X yet to appear).

The short titles for texts by Edmund Burke:

Abridgment – "An essay towards an abridgment of the English history" (c. 1757) WS vol. I pp. 332-552.

Address – "Address to the King" (1777) WS vol. III pp. 258-276.

Appeal – "An appeal from the new to the old Whigs" (1791) in William King and French Laurence (eds.), *The works of the Right Honourable Edmund Burke* (1792-1827) vol. VI pp. 73-267.

Assembly – "Letter to a member of the National Assembly" (1791) WS vol. VIII pp. 294-335.

Conciliation – "Speech on conciliation with America" (1775) WS vol. III pp. 102-169.

Discontents – "Thoughts on the cause of the present discontents" (1770) WS vol. II pp. 241-323.

Duration – "Speech on a bill for shortening the duration of parliaments" (1780) WS vol. III pp. 588-602.

Education – “On education” (c. 1776) WS vol. III pp. 242-246.

Elliot – “Letter to William Elliot” (1795) WS vol. IX pp. 29-45.

Fitzwilliam – “Letter to the Earl Fitzwilliam” (1795) [a.k.a. “Fourth letter on a regicide peace”] WS vol. IX pp. 44-119.

Impeachment – “Speech on opening of impeachment” [of Warren Hastings] (section of 16 February 1788) WS vol. VI pp. 313-373.

Langrishe – “Letter to Sir Hercules Langrishe” (1792) WS vol. IX pp. 594-639.

Noble – “Letter to a noble Lord” (1796) WS vol. IX pp. 145-186.

Observations – “Observations on the conduct of the minority” (1793) WS vol. VIII pp. 402-452.

Popery – “Tracts relating to the Popery laws” (1765) WS vol. IX pp. 434-481.

Quebec – “Speeches on the Quebec government bill” (1791) in *The speeches of the Right Honourable Edmund Burke* (1816) Vol. IV pp. 1-38.

Reflections – “Reflections on the revolution in France” (1790) in C.C. O’Brien (ed.), *Edmund Burke, Reflections on the revolution in France* (Penguin, 1986).

Regicide I – “First letter on a regicide peace” (1796) WS vol. IX pp. 187-264.

Regicide II – “Second letter on a regicide peace” (1796) WS vol. IX, pp. 264-296.

Regicide III – “Third letter on a regicide peace” (1797) WS vol. IX pp. 296-386.

Religious – “Speech on a motion for leave to bring in a bill to repeal and alter certain acts respecting religious opinions” (1792) in William King and French Laurence (eds.), *The works of the Right Honourable Edmund Burke* (1792-1827) vol. X pp. 41-62

Remarks – “Remarks on the policy of the allies” (1793) WS vol. VIII pp. 492-496.

Representation – “Speech on a motion made in the House of Commons, the 7th of May 1782 for a committee to inquire into the state of the representation of the commons in parliament” (1782), in William King and French Laurence

(eds.), *The works of the Right Honourable Edmund Burke* (1792-1827) vol. X pp. 92-108.

Sheriffs – “Letter to the Sheriffs of Bristol” (1777) WS vol. III pp. 288-330.

Sublime – “A philosophical enquiry into the origin of our ideas of the sublime and beautiful” (1757) WS vol. I pp. 185-320.

Vindication – “A vindication of natural society” (1756) WS vol. I pp. 129-184.

Introduction

This study will examine the relationship between the political ideas of Edmund Burke and those of John Locke. More specifically, it will attempt to verify the proposition that Burke's political ideas can be understood as a deliberate attempt on his part to offer an alternative to Locke's political ideas. I will carry out this examination in two stages. The first stage will look into the perception of Locke's and Burke's political ideas in the historical context of Burke's time. The second stage will consist in a close reading of Burke's writings, in order to find out his attitude to Locke's ideas, and how he placed his own in relation to them.

In order to examine the historical context of Burke's political ideas and particularly their relation to the way Locke's ideas were discussed, I have chosen to focus the first part of this research on the 1790s controversy in Britain, concerning the revolution in France. This choice has three main reasons. The first is that since a complete review of the historical context of political ideas during the whole of Burke's public career (spanning more than 40 years) would be outside the scope of this dissertation, a shorter period and a more constrained field of ideas have to be selected. As a specific segment of public discourse on political principles, the revolution controversy is particularly valuable, having evinced the most significant – in terms of both volume and content – public output of publications on political ideas in 18th century Britain. Furthermore, in relation to at least two of the principal issues with which the revolution controversy was preoccupied – the meaning of the constitutional precedent set in 1688 and the relation of British liberty to the

French principles – Locke’s ideas were regarded by many participants as crucial.¹

The second reason is that Burke’s interventions very much shaped the themes and emphases of the debate. No other writer against the French revolution evinced so many responses (both negative and positive), so that many of the writings that this debate stimulated, directly or indirectly touched on Burke’s ideas. The extent of this impact was reflected in the observations of many of Burke’s opponents, such as Thomas Christie, who in 1791 expressed dismay at seeing a man of Burke’s talents and experience, “a politician and a philosopher”, a “*master in Israel*”, mistaking so much the ideas of the French revolution; and Francis Plowden, who wrote in 1794 that posterity will scarcely believe how “at the close of the 18th century, the condemnation of Burke and of his book upon the Revolution of France, and of its principles, became in the eyes of the British Nation the test of turbulence, faction and sedition”.²

The third reason is that the nature of the revolutionary debate, and Burke’s place in it, occasioned his greatest output in terms of both quantity and quality. His works from this time present Burke’s ideas at their most mature, and many of them treated at length issues pertaining to the principles of political society, (including the inheritance of Locke’s and Lockean political ideas).

My study of Locke’s and Burke’s ideas and of their historical context, has profited from developments in scholarship of recent years. Research on the literature of the revolution controversy is still far from complete, but it has

¹ The principal issues of the controversy are discussed in G. Claeys’ “Introduction” PW vol. I pp. xxiv-xxv.

² Thomas Christie, *Letters on the revolution of France* (1791) PW vol. I p. 179 - quoting John, 3:10; Francis Plowden, *A short history of the British empire during the last twenty months viz. from May 1792 to the close of the year 1793* (1794) pp. 45-46. Burke’s role in the controversy is discussed in J.C.D. Clark (ed.), *Edmund Burke, Reflections on the revolution in France – a critical edition* (Stanford, Stanford University Press, 2001) p. 97.

witnessed significant progress in the last two decades. Deserving special note is the growing scholarly attention to the loyalist publications of the revolution debate, which had been relatively neglected in the past, and the recent studies of the periodical and fictional output of the period, which have considerably widened the previously known scope of means and places in which the debate of the 1790s was carried out.³

In the last decades a great change has also occurred in the way scholarship views the ideas of John Locke and of Edmund Burke. A reappraisal of Locke's ideas and of the way he was regarded in his own days and throughout the 18th century has occurred. His political thought is now known to have been reputed in his own days, as quite radical in content and import; his moderate image having been built after his death, mainly around the eminence of his *An essay concerning humane understanding* (1690). In Burke's case, the conventional view which regarded him as a conscious follower of Locke has been undermined for some time – although claims to an affinity between some of Burke's and Locke's ideas persist, far more modest in scope and clearly in the minority. In the case of both Locke and Burke, it appears that scholarship has traveled to a great degree full circle, coming close to the way they were regarded in their own time.

However, I will argue that the separate developments in scholarship have not yet been integrated into an adequate picture of the relations between the political ideas of these two thinkers. Such an integration will be attempted by looking at the way Burke's contemporaries viewed the relations between the

³ For example J.J. Sack, *From Jacobite to conservative* (Cambridge, Cambridge University Press, 1993); J. Dinwiddy "Interpretations of anti-Jacobinism" in M. Philp (ed.), *The French revolution and British popular politics* (Cambridge, Cambridge University Press, 1991) pp. 38-49; D. Eastwood, "Patriotism and the English state in the 1790s" in Philp *French* pp. 146-168; T.P. Schofield, "Conservative political thought in Britain in response to the French revolution" in *The Historical Journal* 29 (1986) pp. 601-622; J. Mori "Languages of loyalism: patriotism, nationhood and the state in the 1790s" in *English Historical Review* 118 (2003) pp. 33-58; E.L. de Montluzin, *The anti-Jacobins 1798-1800* (Macmillan, 1988); M.O. Grenby, *The anti-Jacobin novel* (Cambridge, Cambridge University Press, 2001).

ideas of the two, at Burke's treatment of Locke's ideas, and at Burke's own political thought – with a special emphasis on the issue of sovereignty. The original contributions to knowledge in this research concern the political ideas of Burke, and their relationship to the ideas and the intellectual legacy of Locke. In particular I propose that Burke's ideas were viewed by his contemporaries to be evidently anti-Lockean in import, and that my detailed study of his political thought shows this view to be a correct assessment of his position. This proposition goes against those views in scholarship which downplay the importance of Locke and his ideas in the political discourse of late 18th century Britain, and which assign to anti-Lockeanism a peripheral place in Burke's thought, if at all.

In the first part of this dissertation, treating the historical context by way of a close examination of the pamphlet literature of the 1790s, I propose a re-assessment of the meaning and import of the political ideas it treated in a number of areas. Though my study confirms the preponderance of those identifying themselves with the Anglican Church among writers of loyalist views, I challenge the too close identification of those views with the High Tory outlook, as presented in scholarship, especially by J.A.W. Gunn. Instead, I propose that there was a wide variety of Anglican political attitudes represented in the pamphlet literature with an important part of it explicitly identifying itself with Burke and his ideas.⁴ However, the most significant contribution to scholarship in this part of my study concerns the importance assigned to Locke's ideas in the pamphlet literature of the 1790s. I challenge the position that minimizes the importance of Locke's ideas in the debate, advocated prominently by G. Claeys, whose eight-volume *Political writings of the 1790s*, is the main scholarly collection and introduction to the subject. I contest both Claeys' explicit claim to this effect, and its implicit expression in

⁴ J.A.W. Gunn, *Beyond liberty and property* (Montreal, McGill-Queen's University Press, 1983) pp. 174-179.

the under-representation of material treating Locke and his ideas in the selection. I also point to methodological problems in Claeys' selection and interpretation, in the choice of texts and in his introduction's unsatisfactory treatment of the impression created by this choice.⁵ My research shows that far from Locke and his ideas being of secondary importance in the political debate of the 1790s, much of it – particularly so among more prominent and influential writers – was couched in Lockean issues and terms, with many explicit references to Locke and his works. Moreover, I show that all important radical pamphlets, and many of the more significant loyalist ones, presented Burke's ideas as fundamentally antagonistic to Lockean political concepts, often explicitly mentioning Locke. This last conclusion refutes the claim by scholars like E.L. de Montluzin that most 1790s conservative writers agreed with many of John Locke's ideas, and presents support to the view that most conservative writers were adverse to Locke's ideas – a view that I. Kramnick has articulated, but to which he has offered only the weakest factual proofs.⁶

In the second part of the dissertation, dealing directly with Burke's political ideas, my main contribution to scholarship is the conclusion that the anti-Lockean import contemporaries pointed to was a central and conscious component of his thought. I dispute both the views of scholars like A. Cobban, B.T. Wilkins and F.A. Dreyer, who describe Burke as some kind of Lockean, and of those like F. O'Gorman, J. Conniff and J.C.D. Clark, who propose a more moderate view of Burke's debt to Locke, claiming Burke adopted some aspects of Locke's theory which he developed in synthesis with

⁵ G. Claeys (ed.), *Political writings of the 1790s* (William Pickering, 1995), 8 volumes. See especially "Introduction" in vol.I pp. xvii-lx. See also G. Claeys, "The French revolution debate and British political thought" in *History of Political Thought* 11 (1990) pp. 59-80.

⁶ Montluzin *Anti-Jacobins* pp. 44-46 and notes; I. Kramnick, "Republican revisionism revisited" in *The American Historical Review* 87 (1982) pp. 650-652.

other ideas.⁷ I also disagree with the position of scholars like F. Canavan, J.L. Pappin III and J.G.A. Pocock, who, while accepting a conflict between Burke's and Lockean (usually they treat a wider radical political discourse and not specifically John Locke's) political ideas, downplay its significance to Burke's thought, and (except for Pocock) regard it mainly as a side effect of his debt to the medieval natural law tradition.⁸ My contribution in this respect is also methodological, since none of the above scholars attempted a substantial and detailed treatment of the relations between the political ideas of Burke and those of Locke, which is exactly what my research sets out to do. I make a complete and detailed review of all recorded cases in which Burke explicitly treated Locke. In addition, I present many cases from Burke's writings where he treated ideas that are obviously Lockean. Moreover, I propose that a number of Burke's more important works, particularly the *Reflections* and the *Appeal*, were to a great measure attacks on the most fundamental assumptions of Lockean political theory. I show the *Appeal* as a sustained and comprehensive refutation of the ideas of British proponents of "natural rights" political ideas, which was not only anti-Lockean but also attacked problematic aspects of John Locke's political theory. In addition, I concentrate on two cases where I argue that Burke was clearly and comprehensively censuring political ideas that were explicitly attributed to Locke. These are the *Representation* (1782) and the *Observations* (1793). Both texts addressed

⁷ A. Cobban, *Edmund Burke and the revolt against the eighteenth century* (George Allen & Unwin, 1929 – reprint by AMS, 1978) p. 55; B.T. Wilkins, *The problem of Burke's political philosophy* (Oxford, Clarendon, 1967) pp. 19, 23; F.A. Dreyer, *Burke's politics, a study in Whig orthodoxy* (Waterloo, Ontario, Wilfrid Laurier University Press, 1979) pp. 5, 68-69, 81-84; F. O'Gorman, *Edmund Burke, his political philosophy* (George Allen & Unwin, 1973) pp. 15-17, 63; J. Conniff, *The useful cobbler: Edmund Burke and the politics of progress* (New-York, State University of New York Press, 1994), pp.10-11, 50-51; Clark *Reflections* pp. 37-38, 86-87;

⁸ F.P. Canavan, *The political reason of Edmund Burke* (Durham N. C., Duke University Press, 1960) pp. 205, 88-89; J.L. Pappin III, "Edmund Burke's philosophy of rights" in I. Crowe (ed.), *The enduring Edmund Burke* (Wilmington, Delaware, Intercollegiate Studies Institute, 1997) pp. 115-127; J.G.A. Pocock, *Virtue, commerce and history* (Cambridge, Cambridge University Press, 1985) pp. 65, 167-169.

parliamentary debates in which the Lockean principles to which Burke was objecting had been raised by some participants explicitly in Locke's name, and thus could not have been understood by contemporaries but as direct challenges and denials of the principles of the one in whose name they were being invoked. Both of these texts have already been treated by scholarship (particularly so the *Representation*, by Pocock), but not for their significant implications for Burke's anti-Lockeanism, to which I draw attention.⁹ I give further support to my position by exploring four central themes of Burke's political thought. Proceeding from them to describe his view of the components and function of political society, I show these to consist in a refutation of Locke's basic political premises. Particular attention is given to Burke's treatment of property in his political thought, showing that far from accepting Locke's view of it as the reason for the existence of government, as claimed by scholars like Canavan, F.P. Lock and J.R. Dinwiddy, he held an opposite position. He regarded property as a tool for the preservation of government to whose existence it is subordinate.¹⁰ Finally I proceed to examine Burke's idea of political sovereignty, a subject which has been unsatisfactorily treated in recent scholarship. I disagree with the work of O'Gorman, Conniff, Dreyer, Pocock, H.T. Dickinson, L. Strauss and P. Stanlis, which labels Burke's ideas on the subject as conventional or undecided. Even in cases when scholars point to these ideas as having greater merit, they nevertheless refrain from giving them sufficient treatment and explication.¹¹ I

⁹ See J.G.A. Pocock, *Politics, language and time* (Methuen, 1972) pp. 227-229.

¹⁰ F.P. Lock, *Burke's Reflections on the revolution in France*, (George Allen & Unwin, 1985) pp. 80-81; J.R. Dinwiddy, "James Mill on Burke's doctrine of prescription" in J.R. Dinwiddy, *Radicalism and reform in Britain* (Hambledon, 1992) p. 263; and F. Canavan, *The political economy of Edmund Burke* (New-York, Fordham University Press, 1995) pp. 70-71.

¹¹ O'Gorman *Burke* p. 17; Dickinson *Liberty* p. 215; Conniff *Useful* pp. 272-273; Dreyer *Burke's* pp. 51-53; L. Strauss, *Natural right and history* (Chicago, University of Chicago Press, 1953) pp. 299-300; P. Stanlis, *Edmund Burke and the natural law* (Ann Arbor, Mich., University of Michigan Press, 1965) pp. 214, 245; Pocock *Virtue* p. 94; J.G.A. Pocock, *The ancient constitution and the feudal law* (Cambridge, Cambridge University Press, 1987 reissue) pp. 170-175.

show that Burke did have a clear and unusual idea of political sovereignty, which held an important place within his political thought. My consideration of this subject includes a treatment of Burke's understanding and use of the term contract (or compact), showing it to have been coherent and anti-Lockean, contrary to claims by scholars like Dreyer, Dickinson and Clark, that he either used the term like Locke or was inconsistent in its use.¹²

¹² Dreyer *Burke's* pp. 68-70; Dickinson *Liberty* p. 291; Clark *Reflections* pp. 86-87.

Part I – Burke and the Lockean inheritance in historical context

1. Overview – the writers and their writings

In the decade following the 1789 outbreak of revolution in France, England saw a flood of publications dealing with the implications of French events on British political institutions and ideas. Immediately following its publication in November 1790, Burke's *Reflections on the revolution in France* became the most significant text of the developing debate, and a large part of publications subsequently devoted to the subject addressed, to one degree or another, his political ideas. By the spring of 1791, about fifty replies to the *Reflections* had been published, but pamphlets favorable to Burke and his ideas had also started to appear, eventually outnumbering the negative ones. The number of tracts treating the revolution and its repercussions soon numbered in the hundreds, many of them addressing issues that were not directly connected to the controversy around Burke's ideas. The general trend of opinions expressed in publications concerned with the revolution mirrored that surrounding the *Reflections*. The publications favorable to the revolution were at first in the clear majority, but were gradually overtaken by those opposing it, with the latter texts eventually outnumbering the favorable ones by about 3 to 1, and the total number of publications reaching into the thousands. Even more impressive was the extent of distribution and readership. Although the number of editions did not necessarily reflect real circulation or success, nevertheless some of the more popular pamphlets indisputably achieved circulations unheard of in England up to that time. Burke's *Reflections* eventually sold about 50,000 copies; Thomas Paine's *Rights of man*, published in two parts in 1791 and 1792, reached several hundred thousand copies; John Gifford's *Address to members of loyal associations* (1792), apparently sold some

100,000 copies; and Hannah More's *Cheap repository tracts* (1795-1797) a series of low-priced loyalist political dialogues directed at popular audiences, sold more than two million copies.¹³

Throughout the 1790s, but particularly in the tense years 1791-1793, the pamphlet war reflected the uncertainty about the future shape of the state, in a great debate about political principles. Radicals repeatedly attempted to disclaim the accusation against them that, because of their support of the French revolution, they entertained notions of overthrowing the British government by similarly violent means. Mirroring the intensity of the debate were the explicitly millennial tones of many texts. These were to be found among radicals like Catherine Macaulay, who in her anonymously published *Observations on the Reflections of the Right Hon. Edmund Burke* (1790) asserted that the French revolution was in fact the new "millennium", which some passages in the New Testament *Revelations* presaged; and among loyalists like William Sewall who in his anonymously published *A rejoinder to Mr. Paine's*

¹³ As to pamphlets which directly concerned themselves with Burke's attacks on the French revolution, S. Andrews identifies 65 such texts in the 1790s, but P.J. Stanlis puts the minimum at 90, and is in my estimate closer to the mark. See S. Andrews *Periodical* p. 27, and P. J. Stanlis, "Review of The language of politics in the age of Wilkes and Burke by James T. Boulton" in *The Burke Newsletter* 5 (combined issue Spring-Summer 1964) p. 343. For the numbers of publications which took part in the wider revolutionary debate, see the discussion by Claeys PW vol. I pp. xxviii-xxxi; M. Butler (ed.) *Burke, Paine, Godwin and the revolution controversy* (Cambridge, Cambridge University Press, 1984), pp. 179-180. Sir Leslie Stephen, *The dictionary of national biography* (1885-1903) vol. XXI p. 1184. It appears that the publication of novels partly or wholly devoted to treating revolutionary ideas and images followed a pattern similar to that of the pamphlets, with radical-leaning novels at first the majority, but being eventually greatly outnumbered by loyalist output. See Grenby *Anti-Jacobin* pp. 2-3.

As to problematic aspects of the number of editions see for example the postscript to John Gifford's *A letter to the Hon. Thomas Erskine* (1797), where revealed his work was styled "Eleventh" (actually being only the second) edition, as an ironic comment on the vast numbers of editions that "democratic" publications were claiming – such as Thomas Erskine's *view of the causes and consequences of the present war with France* (1797) which purported to be the 9th edition (and eventually claimed to have reached 48 editions) – a number apparently achieved by minuscule numbers of copies in each print. See in Gifford *Erskine* note on p. 2, and postscript pp. 173, 179-180. But S. Andrews' *The British periodical press and the French revolution, 1789-99* (Houndmills, Basingstoke, Hampshire, Palgrave, 2000) p. 215, seems to accept the number of editions as evidence of Erskine's pamphlet's success.

pamphlet, entitled, *Rights of man* (1791), expressed his hope that the visible “infernal Purposes of the Powers of Darkness” will be defeated, and thus a contribution will be made to accelerate the coming of the epoch “when the *Shechinah* shall descend to tabernacle with men”.¹⁴

The year 1792 marked the high tide of radical publications, after which the increasingly bloody turn of the French revolution, a growing anti-revolutionary reaction in Britain (actively supported by the government), and the outbreak of war with France in February 1793, caused many supporters of the revolution to fall silent, while the publication and distribution of radical texts became gradually harder. Renewed energy was temporarily infused into the radical camp in 1794 by the failure of the prosecution for treason of a number of prominent radicals, and the unpopularity of the war with France. By 1795 continuing public hostility combined with government provisions which greatly widened the scope of what might be legally construed as seditious activity, brought radical activities into terminal decline, with publications virtually stopping and the radical societies gradually petering out. In the following years some supporters of revolution ceased to be politically active (among them Thomas Hardy, James Parkinson, and – for many years – John Thelwall), others recanted of their views (among them James Mackintosh, Daniel Stuart, Henry Redhead Yorke and David Williams), while tens of thousands eventually emigrated to America (including such prominent figures as Joseph Priestley and Thomas Cooper). As a result, the radical argument in British politics was decisively diminished for more than two decades.¹⁵

¹⁴ Claeys “Introduction” PW vol. I pp. xviii, xlii. [Catherine Macaulay], *Observations on the Reflections of the Right Hon. Edmund Burke, on the revolution in France, in a letter to the Right Hon. Earl of Stanhope* (1790) PW vol. I p. 127. [William Sewall], *A rejoinder to Mr. Paine’s pamphlet, entitled, Rights of man; or an answer to Mr. Burke’s attack on the French revolution* (1791) p. 135.

¹⁵ M. Philp, “The fragmented ideology of reform” in *Philp French* pp. 61-64; *Butler Burke* pp. 9-11; PW vol. I pp. xlviv-xlvii, li. The pamphlet debate about the revolution actually began with Richard Price’s *A discourse on the love of our country* (1789), which had provoked 21 responses

As befits a body of literature that is by nature controversialist, there is ample evidence of writers being acquainted with other texts, their arguments and authors. Often tracts were intentionally devised, in both structure and reasoning, to address other published texts; many were explicitly titled as a response or as a support, to some particular other pamphlet. Burke and Paine are examples of this approach, with the latter's two-part *Rights of man*, an admitted reaction to the writings of the first – the early part to the *Reflections*, the later part to the *Appeal from the new to the old Whigs* (itself bearing Burke's 1791 retort to a number of Paine's arguments in the first part of *Rights of man*). Indeed, in some cases, texts by writers such as William Paley, Hannah More and Thomas Green, directly attested in their pamphlets that the public commotion caused by other tracts (chiefly Paine's and Burke's), had been a major reason for their authors' composing them, and engaging in the debate.¹⁶ This pattern was certainly not confined to some texts only, but was a trait prominent in writings of this period. Among writers on the radical side, James Mackintosh's *Vindiciae Gallicae*, for instance, while explicitly directed against Burke, also referred scathingly to the works of Samuel Cooper and

by the time the *Reflections* appeared. But Burke's pamphlet undoubtedly raised the intensity of the debate and shaped its terms. See also "Introduction" in Clark *Reflections* p. 63.

¹⁶ See for example pp. 158-159 of Thomas Paine, *Rights of man*, (1791-1792, published in two parts) in B. Kuklick (ed.) *Thomas Paine, political writings* (Cambridge, 1989) pp. 57-263. For the public perception of the controversy see in dialogues anonymously published and intended for popular readership, such as William Paley's *Equality, as consistent with the British constitution, in a dialogue between a master-manufacturer and one of his workmen* (1792) PW vol. VII p. 227, where the character of the master-manufacturer (whose views are vindicated in the dialogue), claims "I own, Mr. Paine's book made so much noise, that, from curiosity, I have read it, and I find nothing in it to make me alter my conduct"; and More's *Village politics. Addressed to all the mechanics, journeymen, and day labourers in Great Britain* (1794, 4th edition) PW vol. VIII p. 4, where a bricklayer is described as claiming to have read Paine's *Rights of man*. Another example is Thomas Green's anonymously published *Slight observations upon Paine's pamphlet, principally respecting his comparison of the French and English constitutions; with other incidental remarks, in three letters from a gentleman in London to a friend in the country* (1791) PW vol. V p. 214, which describes how Burke's book and Paine's response were the talk of his coffee house.

Edward Tatham – two of Burke’s most intellectually substantial defenders.¹⁷ Daniel Stuart too, in his *Peace and reform*, while explicitly singling out for censure Arthur Young’s *The example of France, a warning to Britain*, as representative of a tide of extreme Tory opinion sweeping British public discourse, also attacked the ideas of among others Burke, John Reeves and Judge William Henry Ashhurst. George Rous added to later editions of his *Thoughts on government* a postscript attempting to refute the claims raised against him in Thomas Gould’s anonymously published *Vindication of the Rt Hon Edmund Burke’s Reflections*.¹⁸ On the loyalist side of the debate too an awareness of the wider dispute was displayed. Some texts were devoted to defending other loyalist pamphlets – primarily those of Burke, Tatham and Ashhurst – from attacks by radical writings. A typical example was the anonymous *Three warnings to John Bull before he dies* (possibly attributable to Hester Thrale Piozzi), which commended a number of loyalist tracts, including Richard Watson’s *An address to the people of Great Britain*, Ashhurst’s *Charge*, and Young’s *Example* – regretting the fact that 2500 copies of the latter

¹⁷ James Mackintosh, *Vindiciae Gallicae. Defence of the French revolution and its English admirers, against the accusations of the Right Hon. Edmund Burke; including some strictures on the late production of Mons. de Calonne* (1791, 3rd edition) PW vol. I p. 385 describes the two as the only kind of “literary advocates of the most miserable description”, that are currently left to defend what he calls “Priestcraft and Toryism”. Tatham the target for many others, including the anonymous author (apparently a dissenter, using terms such as “priest-craft” and “true church”) which in *The political crisis: or, a dissertation on the rights of man* (1791) PW vol. III pp. 111-112 put Tatham on a par with Burke, describing them as the two greatest “gladiators” of the age. For the reactions in the periodicals to the pamphlets by Samuel Cooper and Tatham, see Andrews *British* pp. 28-30.

¹⁸ Daniel Stuart’s *Peace and reform against war and corruption in answer to a pamphlet written by Arthur Young, esq. entitled ‘The example of France, a warning to Britain’* (1794) PW vol. IV pp. 285-289. Other attacks on Ashhurst’s famous *Charge* include William Hughes’ *Justice to a judge. An answer to the judge’s appeal to justice, in proof of the blessings enjoyed by British subjects* (1793, 2nd edition) PW vol. IV pp. 1-11; the anonymous *More reasons for a reform in parliament* (1793) PW vol. IV pp. 49-56; and Jeremy Bentham’s *Truth versus Ashhurst* (written in 1792 but published only decades later). See also the postscript to George Rous’ *Thoughts on government: occasioned by Mr. Burke’s Reflections* (1791, 4th edition) PW vol. II pp. 2-29.

remained unsold, while Paine's tract was widely disseminated.¹⁹ Many other loyalist texts were aimed mainly at attacking radical pamphlets and their authors. Richard Price's and Joseph Priestley's texts, stand out after Paine's as the radical tracts most attacked; but the list includes many other writers, among them Rous, Capel Lofft, Thomas Christie and Benjamin Bousfield.²⁰ But the two most outstanding examples of loyalist attempts at a wide-ranging attack against radical tracts are certainly Young's *Example* and Gould's *Vindication*. Young attacked, among others, the ideas of Paine, Christie, Priestley, Mackintosh, Yorke and William Godwin, and in later editions devoted special attention to rejecting the criticism raised against his pamphlet in Stuart's *Peace*. Gould's text was a direct attempt to rebut all main objections to the *Reflections*, and it supplied a detailed (if somewhat pedantic) criticism of what were regarded by him as the ten most prominent among the radical

¹⁹ Among the many defenses of Burke are Samuel Cooper's *The first principles of civil and ecclesiastical government, delineated (in two parts) in letters to Dr. Priestley, occasioned by his to Mr. Burke* (1791); Edward Tatham's *Letters to the Right Honourable Edmund Burke on politics* (1791); and [Frederick William Hervey], *A new friend on an old subject* (1791) PW vol. V pp. 66-78. Tatham was defended by [William Atkinson? – attribution uncertain], *A concise sketch of the intended revolution in England; with a few hints on the obvious methods to avert it* (1794) PW vol. VIII p. 191. Ashhurst was defended by Thomas Lionel Freeman's *An address to the disaffected subjects of George the third, by the grace of God, of Great Britain, & c. King, Defender of the faith, &c. &c.* (1793) PW vol. VII pp. 363; and by the anonymously authored *A bird in the hand is worth two in the bush, or a dialogue between John Frankly and George Careful, both members of the same club* (1792) PW vol. VII pp. 289. See also [Hester Thrale Piozzi? - attribution uncertain], *Three warnings to John Bull before he dies. By an old acquaintance of the public* (1798) PW vol. VIII pp. 273-274.

²⁰ Against Price see [Atkinson?] *Concise* pp. 188-189, and Charles Hawtrey, *Various opinions of the philosophical reformers considered; particularly Pain's [sic] Rights of man* (1792) PW vol. VI p. 66, where he claimed that Price's opinions about the rights acquired by the English in 1688 were the opposite of Paine's about past people or parliaments not being able to bind the present. Against Priestley see Arthur Young, *The example of France a warning to Britain* (1794, 4th edition) PW vol. VIII p. 69; Tatham *Letters* p. 10, and [Atkinson?] *Concise* p. 191 who criticized Priestley's attacks on Burke, while upholding Tatham's defense of him. Against Lofft, see Tatham *Letters* pp. 93-94. Against Christie, see Young *Example* pp. 62-63. Against Rous see [Anonymous], *Cursory remarks on Dr. Priestley's letters to Mr. Burke, and strictures on Mr. Paine's Rights of man* (1791) PW vol. V pp. 118-119. Against Bousfield see [Anonymous], *A brief reply to the observations of Ben. Bousfield, esq., on Mr. Burke's pamphlet respecting the revolution in France* (1791) PW vol. VII pp. 43-60.

pamphlets directed against Burke's text.²¹ Illustration of the intensity with which arguments were approached within the debate is offered by the many examples of very specific side controversies carried on – often vehemently – between pamphlets, over various minor matters of fact or opinion that had been stated in some text.²²

The vast extent of the literary output (much of it inconsequential) of the debate engendered in Britain by the French revolution, and even of only that part which can be said to be specifically relevant to the context of Burke's writings and ideas of those years makes it necessary to determine what is to

²¹ Young *Example* pp. 63, 68-69, 81, 152, 157-159. For the ten radical pamphlets treated by Gould see [Thomas Gould], *A vindication of the Right Honourable Edmund Burke's Reflections on the revolution in France, in answer to all his opponents* (1791) PW vol. VII pp. 61-64 (Wollstonecraft's *Vindication of the rights of men*), 64-65 (Williams' *Lessons*), 65-70 (Scott's *Letter*), 70-71 (Anonymous' *Short observations*), 71-82 (the "Preface" and "Appendix" added to Price's *Love of our country* after the *Reflections* published), 82-91 (Towers' "Appendix" added to his *Thoughts*), 91 (Lofft's *Remarks*), 91-96 (Rous' *Thoughts*) 91-101 (Macaulay's *Observations*) 101-118 (Priestley's *Letters*). An added significance to Gould's text is that after its publication and because of it, the author – who at the time of writing did not know Burke and was about to return to Ireland (see Gould *Vindication* pp. 119-120) – was invited to Beaconsfield. This proves that Burke was surely aware of at least the main arguments against him in the 10 tracts treated by Gould, and that he was pleased with the rebuttals by the latter, to the degree that he invited the unknown young Irishman to his house. From Burke's correspondence we know he was aware at least since January 1791 of the main arguments in pamphlets by Wollstonecraft, Rous, Lofft and Macaulay. See COR vol. VI p. 214 n. 1.

²² An instructive example of this occurrence is offered by Paine's assertion in *Rights* about the degeneracy of the Jews – as indicative of the eugenic perils in the intermarriage practices rife among aristocracies. Soon, Paine's claim about the Jews is found reiterated by another radical writer, Thomas Cooper, in his *A reply to Mr. Burke's invective*; while loyalist texts moved to disprove it, with the anonymous *Rod in the brine*, expressing doubts as to if the Jews' "families are more degenerate, than those of other men", and the anonymous *Considerations*, proposing that not merely that Paine's claim was false, but that the truth was exactly opposite to it – notwithstanding the many moral and political disadvantages they were subjected to in Europe, the Jews seemed to have kept moral qualities of their ancestors, and the success of the boxing champion Mendoza showed the same to be true about the physical ones. Thus, in this minor controversy at least, the picture commonly drawn as to the attitudes of radicals and loyalists towards the Jews is reversed. See Paine *Rights* p. 100; Thomas Cooper, *A reply to Mr. Burke's invective against Mr. Cooper and Mr. Watt in the House of Commons, on the 30th of April, 1792* (1792, 2nd edition) p. 71; [Anonymous], *A rod in the brine, or a tickler for Tom Paine, in answer to his first pamphlet, entitled the rights of man. By an Oxford graduate* (1792) PW vol. VI p. 15; [Anonymous], *Considerations on Mr. Paine's pamphlet on the Rights of man* (Edinburgh, 1791) PW vol. V p. 91. For a derogatory attitude towards the Jews among loyalists – thought not in relation to Paine's claim – see [William Jones], *One penny-worth of truth from Thomas Bull, to his brother John* (London, 1792) PW vol. VII pp. 285. See also discussion in Sack *Jacobite* pp. 40-41.

be excluded from the material to be studied, rather than what to include in it. The exact number of the publications connected to the revolution controversy will probably never be known, but it has been estimated at about four thousand, comprising pamphlets, books, sermons and broadsheets; of which about one quarter were directly related to texts by the two most significant participants in this controversy – Burke and Paine. I have therefore attempted to select the more significant and representative ones from among the many thousands, eventually examining about 270 texts – to which I added some 30 significant texts that preceded the revolution, reviewing in total about 300 texts.²³

The authorship of the texts reviewed here is known in most of the cases, but not all. About 100 out of the some 300 tracts inspected were published anonymously, for reasons as varied as fear of prosecution for libel or concern that a writer's identity might bear on the dismissal of ideas treated (as indeed sometimes happened, for instance when the author was identified as a woman). In some cases the identity of the author was rapidly recognized (as with Burke's *Appeal*). At other times writers authors publicly acknowledged their authorship of texts originally published anonymously (as with Mary Wollstonecraft's *Rights of men*). However, in about a quarter of the texts reviewed here, the authorship remains unknown to this day.²⁴

²³ I have reviewed all of the 127 texts included in the main scholarly collection, Claey's eight-volume *Political writings of the 1790s*, and about 170 additional texts not in the collection, but deemed of importance by contemporaries, by current research or by my estimate. On the numbers and nature of the texts, see Claey's "Introduction" PW vol. I pp. lix-lx, and also Claey's "French" pp. 59-80.

²⁴ In a letter to his friend John Douglas, Bishop of Salisbury, Burke described the *Appeal* as "a publication without the Name of the authour[sic], though he makes no secret of his writing". See COR vol. VI p. 309. Burke's view of the women authors who held revolutionary views was displayed in a letter he wrote to his acquaintance Mrs. Crewe, to whom he expressed the hope that "Wives and Mothers of families" such as her, will employ their influence to save themselves and their family from the destruction wrought by "...the Mrs Helena Maria Williams, and the Mrs Woolstencrofts [sic] &c &c &c &c and all that Clan of desperate, Wicked, and mischievously ingenious Women, who have brought, or are likely to bring Ruin and shame upon all those that listen to them". See COR vol. VIII p. 304.

Before turning to the analysis of the said texts, two methodological points should be made. Firstly, in order to describe the two contending groupings of writers and opinions, those favoring the revolution in France and major alterations to the constitutional arrangements in Great Britain, and those opposing revolution and constitutional alterations, the terms “radicals” and “loyalists” will be employed respectively. This classification corresponds to the perception both contemporary and scholarly, that the writings indeed reflect two actually contending ideological camps; however these labels should not lead to over-simplification of the wide variations in contents and style inside of either grouping, or to conceal the fact that some texts really cannot be assigned to either camp. Secondly, I have studied a similar number of texts from each of the two camps, although, as mentioned above, the actual ratio of publications is estimated as leaning preponderantly to the loyalist side (by some 3 to 1). The principal reason for this choice is that most of the more sophisticated and consequential arguments on both sides were aired during the first stages of the debate, when the numbers of publications were less unevenly distributed between sides (in fact with radical texts initially predominant).²⁵

Almost all of the leading writers supportive of the French revolution and its principles during the 1790s can be identified as connected to some degree to one of three main groupings that were active in the spread of radical ideas associated with the revolution. These groups were differentiated to a great

²⁵ The use of the term “radical” to denote those advocating extreme changes in the political system is dated to the late 18th and early 19th century. See OED vol. XIII pp. 91-92; see also Clark *Reflections* p. 375 n. 639. The terms “loyalty” and “loyalist” were widely employed in England since the 17th century, to describe adherents of the established political system, with a particular attachment to the monarchy. See OED vol. IX pp. 74-75. See also the title of [Anonymous], *Loyalty necessary to self-preservation; or, an antidote against the baneful influence of republican doctrines* (1798) PW vol. VIII p. 275. About texts occupying the middle ground between loyalist and radical (Claeys terms the latter ‘reformer’) views, see Claeys’ “Introduction” PW vol. I p. lix.

extent, by separate social, organizational, and political characteristics – although there existed a measure of overlap between them.²⁶

The first was a group of politicians who, led by Charles James Fox, coalesced during the 1790s around their support for revolution in France and parliamentary reform in Britain, into the party that would come to monopolize the Whig appellation in the 19th century. In April 1792 many among them (but not Fox) formed the radical “Society of Friends of the People”, accelerating internal divisions that drove the old, “Rockingham”, Whig party, to split into Foxite and Burkite wings by the end of 1793. With so many of them coming from establishment and aristocratic backgrounds, like Charles (later Earl) Grey, Thomas Erskine (son of the Earl of Buchan) and Fox himself (son of Baron Holland), the Foxites might be termed as establishment radicals. Espousing a radical language of natural rights, they professed a steadfast loyalty to the British constitution, and put forward political reforms that were relatively modest in their scope. Their role in the pamphlet war of the 1790s was marginal, as they were active mainly in parliament, authoring only a small number of pamphlets, such as *A letter from Earl Stanhope, to the Right Honourable Edmund Burke* (1790), Erskine’s *View* of 1797, and some speeches that were distributed in pamphlet form. By the second half of the 1790s, the political importance of the Foxites was very much diminished, following the final split of the Whigs – with the majority of their MP’s joining the Burkeite followers of the Duke of Portland – no prospect of achieving reform or power, and the “Friends” disbanding by late 1793.²⁷

The second group consisted of a relatively close-knit net of reformers, many of them familiar with each other. Members of this group, which might be

²⁶ For a different classification of radical authors see J.T. Boulton, *The language of politics* (Routledge, 1963) pp. 83-96.

²⁷ Charles Stanhope [Earl Stanhope], *A letter from Earl Stanhope, to the Right Honourable Edmund Burke: containing a short answer to his late speech on the French revolution* (Dublin, 1790, 3rd Edition) PW vol. I pp. 1-10; Thomas Erskine, *View of the causes and consequences of the present war with France* (1797, 35th edition).

termed as moderate radicals, were mostly from a middle-class, professional social background, frequently of literary occupation, usually from London, often with connections to dissenter churches, and in many cases to the "Foxite" Whigs. Several individuals in this group had been at some time involved with the activities of the "Society for Constitutional Information" (SCI). Set up in 1780 with the aim of producing and distributing written material supportive of political reform, the SCI was moribund by the second half of the 1780s, but the outbreak of revolution in France (and Burke's attack on it in the *Reflections*) infused it with renewed activity.²⁸

Straining to be seen as eschewing extremism, the members of this group distanced themselves from more controversial figures, like Thomas Paine, demanded relatively moderate reforms – mostly in parliamentary representation, and in the church establishment – and shrank from advocating a complete overhaul of the British constitution, by such measures as the immediate extension of universal political rights, or the immediate disestablishment of the Anglican Church (though many of them supported such measures in principle).

A defining characteristic of this group was its connection with the circles of protestant dissenters from the established church, and especially with those espousing the ideas known as "rational dissent". Although the complete identification – often made by their adversaries – of those supporting radical causes with the dissenters, is not warranted by the facts, the dissenter presence among reformers was considerable. The dissenters had had a leading organizational and an intellectual role in various public struggles of the 1770s and 1780s, like the American conflict and the campaigns for political reform – such as the calls for termination of disabilities based on religious opinions (the Test Acts) or for the modification of parliamentary

²⁸ About the SCI, the "Friends" and the relationship between the two, see P.A. Brown, *The French revolution in English history* (Frank Cass, 1965 reissue) pp. 53-55.

representation. Thus, by the outbreak of public debate about the revolution in France, a central place was already occupied within the radical outpouring of opinions on events by leading dissenters like Joseph Priestley, Joseph Towers, David Williams, Capel Lofft, Thomas Cooper and of course Richard Price, whose November 1789 speech "On the love of our country", was one of the catalysts for Burke's *Reflections*. Moreover, these prominent dissenters performed a decisive role in the social and personal interaction that made many of the leading London radicals, into an actual group, and not just a list of unconnected writers. A central avenue of dissenter influence and acquaintance in radical circles was their prominence in London's publishing industry. Most important were Ralph Griffiths owner-editor of the most successful periodical of the period, the *Monthly Review* (appeared 1749-1844), and Joseph Johnson, owner-editor of the *Analytical Review*, (appeared 1788-1799, co-edited by Thomas Christie) and publisher of many tracts, among them those of Priestley, Wollstonecraft, Christie, Paine, Godwin and Barlow. Around Johnson's dinner table, many of these and other radicals met and formed the close personal and intellectual acquaintances described. In Sheffield Joseph Gales, a Unitarian publisher was at the center of radical opinion, with his weekly *Sheffield Register* and by-weekly *Patriot*.²⁹ Testifying to the relatively close-knit character of the moderate radical group are the numerous recorded cases of mutual acquaintance. For instance, among those personally acquainted with Price, in addition to his closest dissenter associates such as Priestley and Towers, there can be found such radical

²⁹ Another example is the *New Annual Register*, (appeared 1781-1824) was edited by the leading dissenter Andrew Kippis, and Godwin for many years wrote the *Registers'* historical section. For discussions by loyalist writers of the influence of dissenter-owned magazines on the spread of radical ideas see Tatham *Letters* p. 96, and [Atkinson?] *Concise* pp. 188-189. For a more general identification of radicalism with the dissenters see Burke's view in COR vol. VI pp. 15, 125-126, and [Anonymous], *An address to the inhabitants of Great Britain and Ireland; in reply to the principles of the author of the Rights of man* (1793) PW vol. VI p. 379. See also Butler *Burke* pp. 6, 11.

writers as Thomas Christie, Christopher Wyvil, Mary Wollstonecraft and Samuel Parr. Often, such intellectual and personal connections were evidenced in the texts. Many radical pamphlets were intended (and sometimes titled) as a vindication of some other tract, and their texts frequently attest to familiarity with persons or writings. One prominent example is Sir James Mackintosh, who in his *Vindiciae* – regarded by contemporaries as the most comprehensive and persuasive moderate attempt to rebut Burke’s *Reflections* – defended Price’s words, called George Rous’ *Thoughts* excellent, commended the treatment of the new French constitution in Christie’s *Letters*, and praised Catherine Macauley’s *Letter*. Additionally connected with Mackintosh were writers like his brother-in-law Daniel Stuart, Parr who in his *Sequel* testified to their acquaintance, and most probably Christie – since it is evident from the context of Mackintosh’s treatment of the latter’s work, that he had seen it in manuscript, before it was published.³⁰ Another example of the mutual contacts and connections in this group is Christie himself, who in his *Letters* quoted approvingly from Wollstonecraft’s *Vindication* and from Brooke Boothby’s *Letter*, and who expressed his expectation for the upcoming publication of the commentary on the judicial part of the new French constitution by “the ingenious pen of Mr. Bentham”.³¹ Another apparent acquaintance of Christie was John Scott, who in his 1791 *Letter* reported a conversation he had with a man who had resided in France – most probably Christie – alleging Burke’s ignorance of what was actually happening in that country.³²

³⁰ Mackintosh *Vindiciae* pp. 293, 332, 339, 341, 369. In a footnote relating to the reorganization of the French judicial system, he commended Bentham’s *Draughth[sic] of a new plan for the organisation of the judicial establishment in France* (1790), and described it as “profound and ingenious, though perhaps occasionally paradoxical” (p. 352). See also Samuel Parr, *A Sequel to the printed paper lately circulated in Warwickshire by the rev. Chas. Curtis* (1792) p. 54.

³¹ Christie *Letters* pp. 159, 165, 266.

³² [John Scott], *A letter to the Right Hon. Edmund Burke, in reply to his ‘Reflections on the revolution in France &c.’ by a member of the revolution society* (1791, 3rd edition) PW vol. II pp. 159.

The third group of radical writers was markedly more popular in the social background of its members, and in the style and intent of their publications. It consisted of people from the professional middle class, artisan and sometimes even from working class background, usually holding views that were markedly more far-reaching, in both political and economic implications, than those of the former groups, and thus might be termed extremist radicals.

Several were members of the controversial London Corresponding Society (LCS), created in January 1792, with additional contacts and connections to provincial radical groups out of London.³³

Particularly worth noting as by far the most active radical center outside London was Sheffield, combining a history of public unrest with a large radical organization having a strong artisan component, the Sheffield Society for Constitutional Information (SSCI), the talents of an active radical publisher, Joseph Gales, and an articulate and ambitious leader, Henry Redhead Yorke. By 1794 Yorke was addressing both popular mass meetings, and selected parties holding readings of commentaries on Locke and pamphlets of his own composition. This activity culminated in an open air mass meeting of April 1794, which passed a resolution to abandon the reformist policy of petitioning parliament, in favor of more direct action. At this point the authorities arrested several prominent Sheffield radicals, (Gales succeeded in escaping to America), and it turned out that some had turned to more drastic avenues of action, arming themselves for future conflict. Yorke was apparently not involved in the arms plot, but he handled his own defense

³³ H.T. Dickinson, *The politics of the people in eighteenth-century Britain* (Macmillan, 1994), pp. 226, 237-238. The adoption of the French revolutionary appellation "citizens" on the titles of several of the pamphlets and broadsheets published by the LCS, such as *Citizens; we are eager to address you on the extraordinary occurrences that have recently agitated the nation* (1796) and the broadsheet *Citizens! The critical moment is arrived* (1794) cannot have failed to indicate to loyalist and radicals alike, what were the aspirations of such a group. There also are indications of attempts within the LCS to procure arms in preparation for an insurrection, in 1794. See J. Mori, *Britain in the age of the French revolution, 1785-1820* (Longman, 2000) p. 38.

at his 1795 trial for conspiracy so disastrously that he was imprisoned in Dorchester for close to four years. He eventually married the jail governor's daughter, and left the prison an enemy to the revolution (but still a Lockean).³⁴

Most writers in this group, while actively identifying with extreme popular politics, were of middle class background. However, they were outsiders to the mainstream of the capital's Whig circles, for social, economical, geographical or ideological reasons – some were immigrants, others from the lower reaches of the middle class, artisans or from the working class, others yet were active outside of London, and all were proposing immediate and far-reaching political changes in the British constitution. They included Joseph Gerrald, Maurice Margarot, John Baxter, Thomas Hardy, Henry Redhead Yorke, Benjamin Damm, John Oswald, Thomas Cooper and James Parkinson. But probably the most important and prominent among them all was John

³⁴ Brown *French* pp. 146-147. For Burke's impressions of unrest in Sheffield both before and after 1789 see COR vol. VI pp. 312-314 and in the notes. The main facts known about the arms plot are that a printer named Richard Davison, employed at the *Sheffield Register*, had begun to prepare arms (he had about 100 pike heads made), with the involvement of two members of the SSCI, named Widdison and Moody. Davison also offered to procure weapons for radicals in Norfolk and in London (he contacted Hardy) but these approaches did not bear fruit. Gales, publisher of the *Sheffield Register*, seems to have known of Davison's actions, but the exact extent of his involvement in his employee's activities has never been discovered. Other important English radical centers were Manchester – whose local Corresponding Society sent in 1792 the prominent radical Thomas Cooper (together with James Watt) to meet French revolutionaries, an action fiercely attacked (among others by Burke), and eventually resulting in Cooper's emigration to America in 1793 – and Norwich, in which radical groups like the "Norwich revolution society", and the "United society, for the purpose of parliamentary reform" were active until cowed into inaction by the May 1794 arrest for high treason of Isaac Saint, publican of the "Pelican" tavern. Summoned to London for interrogation, Saint admitted there to being the secretary of the "United society", and was detained for at least two months. What happened to him afterwards is not known. See [Anonymous], *No Jacobins, no levellers, no pretended friends to peace, no secret lovers of France, no wolves in sheep's cloathing* [sic], *Windham and the constitution forever* (1794). In Scotland too there was considerable radical activity, up to November 1793 when a "British convention" assembled in Edinburgh (with some delegates from England), using French forms (such as addressing each other as "citizen") and purporting to prepare for power. On 6 December the "convention" was dispersed by the authorities and its leaders arrested. For the provincial radical activities see Brown *French* pp. 55-68, 104-106. See also M. Philp, "Introduction" in Philp *French* pp. 5-7 and Andrews *British* pp. 49-51.

Thelwall, who for a short time in the mid-1790s combined a powerful intellect and the support of some Whig reformers, with a spectacular success in reaching mass popular audiences (accordingly, he was member of both the Whig Friends Of The People, and the popular LCS).³⁵

These writers, associating mainly in the LCS, and in similar provincial organizations, explicitly praised Paine's ideas and their political consequences, and displayed an inflammatory style, wedded to far-reaching, sometimes extravagant proposals – like calls for limitations on individual property and for a world-state. By the mid-1790s they had all been driven to silence, by trials for sedition (although not in all cases actually imprisoned), and the growingly hostile public reaction to their activity. Even Thelwall, who in the heyday of his popularity had had many supporters among the more radical of Whig politicians, was eventually abandoned by them - when they saw fit to distance themselves from his, now less respectable, ideas and politics.³⁶

Naturally, there were some writers not easily subsumed in either of the above groups, the most important of which was Thomas Paine. Connected by his political background from the time of the American conflict to the Whig and

³⁵ Gerrald grew-up in the West-Indies and Pennsylvania before coming to London, Margarot was the son of a French importer of wines, Baxter was a silversmith, Hardy was a shoemaker, Yorke and Damm were active in Sheffield, Oswald lived in Paris and joined the French revolutionary army. Relatively un-typical were Cooper a member of the Manchester Constitutional Society, who was a lawyer acquainted with Priestley; and Parkinson, a London medical Doctor and son of a Doctor. Thelwall was the son of a silk merchant, but he supported himself by writing and later by teaching locution. See Brown *French* pp. 72-73.

³⁶ Benjamin Damm, *An address to the public on true representation and the unity of man* [Sheffield, 1791] pp. 4-5, described Paine as "that universal philanthropist" and as "Unanswerable Politician"; Henry Yorke *Thoughts on civil government addressed to the disfranchised citizens of Sheffield* (1794) PW vol. IV pp. 230 and 241, proposed universal education (including for women) and universal suffrage, and called his readers "COMRADES"; the title of John Oswald's *The government of the people; or, a sketch of a constitution for the universal common-wealth* (1793) PW vol. IV pp. 95-103, speaks for itself; John Thelwall's *Rights of nature against the usurpations of establishments, a series of letters to the people, in reply to the false principles of Burke* (1796) in G. Claeys, *The politics of English Jacobinism* (Pennsylvania State University Campus, Pennsylvania State University Press, 1995) p. 400 attacked the accumulation of capital into the hands of a few, which he called "a disease".

dissenter circles of the first group, and by his social background (he originally trained as a staymaker) and writing style to the popular radicalism to the second group, he straddled both and belonged to neither. Paine's trajectory in the 1790s brought him from being numbered among respected Whig reformers (even corresponding with Burke), to being regarded in England as epitome of wildest extremism and atheism, with even such an inveterate supporter of radical causes as Thomas Erskine eventually joining in the prosecution against Paine's *Age of reason*.

In addition, there were some writers who occupied an intermediate position between radicals and loyalists, both in their opinion and in their reputation among other writers. One such case was William Paley, who's work won praise from both sides of the divide – from Priestley, Parr and Yorke on the radical side (though, it seems, they were all praising Paley's *Principles of moral and political philosophy* (1785) and not his writings after the French revolution) and from Tatham and others on the loyalist side.³⁷

Another case was Francis Plowden, whose *Jura Anglorum* and *A short history of the British Empire during the last twenty months*, purported to defend the British constitution from the two-pronged attack of Paine and Burke. Plowden's outlook should have positioned him in the radical camp, for he proclaimed the British constitution to be founded on a democratic basis. He expressed support for political reform and at least one loyalist pamphleteer thought his views required rebuttal. However, Plowden's able wording, his shirking of more contentious matters (such as the meaning of the revolution in France or

³⁷ Joseph Priestley, *Letters to the Right Honourable Edmund Burke, occasioned by his Reflections on the revolution in France, & c.* (1792, 3rd edition) PW vol. II p. 338; Parr *Sequel* p. 70; Yorke *Thoughts* p. 263; Tatham *Letters* p. 48; and [Anonymous], *A friendly address to the reformers of England* (1794) PW vol. VIII pp. 179-180, 182. Another loyalist writer castigated Paley, for being one of those who had fallen into the snare of Locke's sense-based philosophy. See Thomas Green, *An examination of the leading principles of the new system of morals, as that principle is stated and applied in Mr. Godwin's Enquiry concerning political justice, in a letter to a friend* (1799, 2nd edition) PW vol. VIII p. 351.

the extent of reform), his extensive quotes from authorities like Montesquieu and Blackstone, and his negative comments on Priestley's religious views, made him appear to many as a defense of the established political order.³⁸

A third example was Sir Brooke Boothby, whose quibbling and pompous texts declared their support for the loyalist side of the debate, while drawing a tortuous line of reasoning in an attempt to reject both Burke and Paine, while at the same time defending Rousseau (Boothby's acquaintance) from accusations of being a revolutionary. Thus Boothby's purportedly loyalist texts, were denounced by the loyalist writer Charles Hawtrey, and commended by the radical Thomas Christie.³⁹

Research about the loyalist side of the revolution debate, although significantly expanded in the last decade, has to date been far less comprehensive than that about the radical side. In general, three (sometimes overlapping) categories of loyalist writers are mentioned and studied: those linked to government sponsorship, those connected with loyalist associations, and those associated with the so-called "High Tory" circle. It will emerge, however, that such a portrayal is significantly deficient, as a sufficient description of the dominant ideas and attitudes on the loyalist side in the revolution debate.⁴⁰

³⁸ Francis Plowden, *Jura Anglorum. The rights of Englishmen* (1792), and *A short history of the British empire during the last twenty months viz. From May 1792 to the close of the year 1793* (1794). An attack on Plowden's views was [Anonymous], *The malecontent. A letter from an associator to Francis Plowden esq.* (1794). The *Jura* brought Plowden a honorary DCL from Oxford, an uncommon honor for a Catholic - especially one that had trained at St. Omer to become a Jesuit. Plowden's distance from the mainstream of the loyalist camp was evidenced by his vitriolic denigration of Burke and his ideas. See Plowden *Short* pp. 45-46.

³⁹ Hawtrey *Various opinions* p. 89; Christie *Letters* p. 165.

⁴⁰ The leading periodicals of the loyalist camp were: the *Gentleman's Magazine*, a long-established mainstay of mainstream public opinion which, accordingly, at first commended the fall of the Bastille, but adopted increasingly anti-revolutionary views as the 1790s progressed; The *British Critic*, founded in 1793 by the High Tory "Society for the Reformation of Principles by Appropriate Literature"; the short-lived but influential *Anti-Jacobin or Weekly Examiner*, published during 1797-1798 by a group of ambitious young supporters of the government, headed by George Canning, and followed by its indirect successor the *Anti-Jacobin Review, or Monthly Magazine* edited by John Gifford, appearing from July 1798. See

A prominent characteristic of many loyalist writers was indeed their connection to government. Often they were minor officials, such as magistrates, members of governmental boards or even pro-government MP's. At other times government connection was only pecuniary – the writer was paid for his services. Altogether, it has been estimated that more than half of loyalist publications were composed by writers directly employed, patronized or pensioned by the government.⁴¹

However, these writers cannot be described as a group, in terms of organization or ideas. There was no mutual connection or coordinated action between them, and there is no evidence for the government making any concerted effort to direct the kind of opinions or proposals such writers put forward. While some writers clearly shared a certain propensity for legalistic and instrumental arguments, tending to base the case against revolutionary notions on moderation and convenience, others presented far more principled and ideological stances (with wide variations among those too). Probably the most famous and important examples of the former kind are Judge Ashhurst, and Arthur Young (who later headed the board of Agriculture), while figures such as John Reeves (formerly a colonial magistrate, and later appointed the King's printer) and John Bowles (paid by government for his numerous

Montluzin *Anti-Jacobins* pp. 21-22. Another dimension of the ideological debate were novels partly or wholly devoted to treating revolutionary ideas and images. One example of overlap between categories is Edward Sayer, the loyalist author who published anonymously both the pamphlet *Observations on Doctor Price's revolution sermon* (1790), and the novel *Lindor and Adelaide* (1791). See Grenby *Anti-Jacobin* pp. 31-33.

⁴¹ See Dinwiddie "Interpretations" pp. 46-47. There seem to have also been significant covert activity to influence opinions by secret service financial subsidies, with sums of up to 5,000 pounds every year. See PW vol. I p. xxxvii. But this did not stop, for example, John Gifford, a writer and editor subsidized by government funds, from handling another writer closely associated with the government quite harshly, when he described Arthur Young's anti-revolutionary *Example* as an amend and recantation for Young's former political errors about France. See John Gifford, *A letter to the Earl of Lauderdale containing strictures on his Lordship's letters to the peers of Scotland* (1800, new edition) p. 34.

loyalist pamphlets), are examples of the latter kind of writers connected to the government.⁴²

The second category of loyalist writers, were those connected to loyalist associations. These associations, accused by radicals of being merely tools of the government, were in fact nothing of the sort. They were for the most part spontaneous organizations, headed by middle class property owners and by religiously motivated individuals, wishing to halt and reverse the apparent spread of revolutionary and atheist ideas and actions among British popular classes. This they effected by printing and distributing material, both original and not – the latter often as a shortened and popularized version of a more serious work. The most famous and important of these organizations was “The Association for the Protection of Liberty and Property against Republicans and Levellers”, founded by the ubiquitous Reeves in November 1792, and soon germinating related or similar organizations around the country. By February 1793 there were already over 1,000 such associations all over Britain, and they eventually numbered more than 2,000. There is ample evidence that Pitt’s government was uneasy both with the popular focus and with some of the ideas divulged by these associations. Reeves later testified that the government presented his association with only guarded support. In 1795, his pamphlet *Thoughts on the English government* was alleged to be absolutist in leaning. When prosecuted for it, Reeves found out that Pitt and his parliamentary supporters, far from defending him, joined in the denunciation. Hannah More too, was criticized in some loyalist circles for politicizing the masses through her popular writings. However that may be, the loyalist associations certainly had an important role in stemming and then

⁴² Others writers in this group were John St. John and George Dallas. On writers connected to the government see also Sack *Jacobite* pp. 23-24, 86-87, 93; Mori “languages” pp. 33-59.

reversing the tide of opinion concerning revolutionary ideas, during the 1790s.⁴³

The third category to which loyalist writers are assigned, and probably the most coherent one, is the group of writers identified as "High Tory". The term, already employed by contemporaries and adopted by modern scholarship, wishes to convey the principles of a group which in their support for the role of the monarchy and of the established church, propounded new versions of older ideas which had been formulated by High Church and Tory thinkers of the early 18th century (such as the patriarchal origin of government or the view of the clergy as an estate of parliament).⁴⁴

⁴³ John Reeves, *Thoughts on the English government. Addressed to the quiet good sense of the people of England* (1795) – three additional parts were added in 1799-1800. About the associations see Butler Burke pp. 8, 179; Sack *Jacobite* pp. 100, 104-105; Andrews *British* p. 210. An excellent primary review of their ideas and activities is provided by the *Association papers* – a collection of proceeding and publications by Reeves' association, published in 1793. The collection is prefaced by the "Considerations and Resolutions" of the association's first meeting, leading to its institution as a permanent society. The meeting is described as considering the main claim of the radicals as being the "Principle of Equality", and their wish, to achieve "ideas of perfection" never known in the world. The meeting holds that inequality is inevitable, and that the political system in the "happy Country" that is England, "is more the result of every man's own exertions, than of any countrouling institution of the state", and that by this inequality and mutual dependence, the extraordinary prosperity of England was created and continues to prosper. Furthermore it is claimed that the example of France, shows that such notions would bring, under the "arbitrary disposal of self opiniated Philosophers, and a wild and needy mob", only destruction and murder, while the people who "have only changed their masters, groan under new tyrannies of which they have never heard or dreamed". Such are "the new lights and the false philosophy" of England's "pretended Reformers" (*Association papers* pp. 1-3). The collected 50 tracts printed and distributed by the society, are of varied nature. Some are reprints of contemporary documents like Lord Loughborough's *Speech on the alien bill* and *The speech by M. Pethion, Mayor of Paris upon the accusation of M. Robspierre*; others are extracts from works by thinkers like Paley and Bolingbroke; other yet are short simple texts, intentionally written to impress upon popular audiences the evils and dangers of French revolutionary ideas, such as More's *Village politics* and a number of pamphlets from the "Bull Family" series, anonymously authored by William Jones of Nayland; and there even are a number of anti-revolutionary songs, either new, such as *The happy man*, or setting new words to extant traditional tunes, such as *Song to the tune O the golden days of good queen Bess*. About the accusations against More see Grenby *Anti-Jacobin* p. 15. About the role of religiously motivated loyalists see Grenby *Anti-Jacobin* pp. 155-156.

⁴⁴ The term merges two related but distinct appellations of the early 18th century – that of the "High Church" Anglicans stressing the sacred nature of Episcopacy and of hierarchy; and the "Tory" adherents of the divine nature of kingship. The term was already employed in the

Only some of the many writers connected with this group took a direct part in the revolution controversy, among those the most prominent were Bowles, Reeves, Jonathan Boucher, William Jones, Robert Nares and George Horne. The names of Bowles and Reeves illustrate the partial overlap between the three categories discussed, with Bowles' connection to government, and Reeves actually linked to all three groups – government, loyalist associations and High Tories.⁴⁵

The more significant insight into the nature of loyalist authorship is however offered by the fact that all of the other four named above were Anglican clergymen. It appears that the role of the Anglican clergy among loyalist participants of the revolution debate, has not yet been sufficiently studied, nor its import adequately considered. Even in the brief survey offered by this essay the preponderant role of Anglican clergymen is immediately manifest. Among writers of loyalist tracts whose authorship has been satisfactorily established (since often published anonymously), Anglican clergymen number about half.⁴⁶ The proportion becomes even larger, if to those who

1790s, such as in [Belsham] *Historic* p. 74. For the appellation being adopted by modern scholarship, and for their ideas see Gunn *Beyond* pp. 164-165, 174-179, 185.

⁴⁵ On the loyalist side – like the radical one – patterns of acquaintance were important in establishing argumentation and assisting publication. This was especially evident in the High Tory circle, where for example the American exile Boucher's acquaintance with Stevens aided his induction into English loyalist publications, and eventually (through Jones of Nayland's assistance) his being awarded a living. John Gifford and John Bowles, professional writers, mutual friends and supporters, stood at a center of a net of acquaintances and correspondents covering most of the prominent loyalist authors, including Reeves, Brand and Cobbet. Naturally there was a degree of social overlap between groups.

⁴⁶ Of some 150 loyalist tracts reviewed here, the authors of about 45 remain unknown. The remaining 105 texts were authored by 60 odd writers (since some writers produced more than one tract), among them roughly half can be identified as Anglican clergymen. This preponderance is in keeping with the findings of E.L. de Montluzin's research into the identity of those who contributed articles to the two leading loyalist reviews of the time. Of the seventy writers she identified from Gifford's *Anti-Jacobin Review and Magazine*, clergymen are by far the largest single group: over half were, had been or were to be clerics – with a handful from various denominations (including some dissenters and a catholic), but the great majority Anglican; she has noted a similar prevalence of Anglican clergymen among writers in Nares' *British Critic*. See Montluzin *Anti-Jacobins* pp. 30-41 and E.L. de Montluzin, "Attributions of authorship in the *British Critic* during the editorial regime of Robert Nares,

were actually serving clergymen, are added authors otherwise linked to the established church - such as holders of academic positions subjected to direct (such as teaching divinity), or partial (such as teaching Hebrew and Syriac) church influence, or laymen active in various devotional and lay-church circles and organizations.⁴⁷

The Anglican voice clearly emerges as the principal one, within the loyalist camp – with such authors consisting of a proportion as large, if not larger, than that of dissenter clergymen among radical writers. As a consequence of this preponderance, the degree to which the Anglican voice is identified with the High Tory circle and its ideas becomes essential for a correct interpretation of loyalist opinion.

A major problem with identifying the weight of this circle within loyalist opinion is that in the 1790s the label of High Tories was applied rather indiscriminately and usually as a term of disparagement. The tendency is evident even in an intelligent writer as Mackintosh, who disparaged Samuel Cooper and Edward Tatham, as the only kind of “literary advocates of the

1793-1813” in *Studies in Bibliography* 51 (1998) pp. 241-259. See also R. Hole, “English sermons and tracts as media of debate on the French revolution, 1789-1799” in M. Philp, *The French revolution and British popular politics* (Cambridge, Cambridge University Press, 1991) pp. 18-37.

⁴⁷ In Oxford and Cambridge, degrees and fellowships could only be conferred on those who subscribed to the 39 articles of the Anglican Church (in Ireland’s Trinity College of Dublin, fellows were required to take Anglican holy orders and remain celibate; in Presbyterian Scotland’s universities the situation was different). Examples of cleric academics are, Edward Tatham, Doctor of divinity and Rector of Lincoln College, Oxford; George Horne, fellow of Magdalen College, Oxford, Vice-Chancellor of the University, and eventually Bishop of Norwich, who published in pamphlet form the anti-revolutionary *A charge to the clergy of the diocese of Norwich*, (1792); James Hurdis, fellow of Magdalen and Oxford Professor of Poetry published in pamphlet form *Equality: a sermon* (1794); Richard Hey, a fellow of Magdalen College, Cambridge, who authored a pamphlet named *Happiness and rights* (1792); William Atkinson, fellow of Jesus College, Cambridge and the reputed author of *A concise sketch of the intended revolution in England; with a few hints on the obvious methods to avert it* (1794). Burke described Oxford in a letter as “one great seminary of the Church of England”. See COR vol. VII p. 571.

Stevens and others of the High Tory group are examples of laymen active in church organizations, and so is the anonymous author of *An answer to Dr. Priestley’s letters to the Rt. Hon. Edmund Burke in a letter to the author by a layman of the established church* (1791), who described himself as a “lay-divine”.

most miserable description", left to defend "Priestcraft and Toryism" – the commonly-used terms of scorn towards High Tory ideas. In fact Cooper and Tatham were outstanding examples of clergymen who attempted to offer loyalist political views which would not be based on the traditional High Tory terminology and arguments. Even Burke, himself, certainly no High Tory, was sometimes labeled so by adversaries.⁴⁸

Furthermore, the identification of the High Tories of the 1790s is also problematic in current scholarship too. Gunn, for example, describes the High Tory circle as centering around William Stevens, a writer, editor and lay church activist, and including among others: George Horne, Bishop of Norwich (and Stevens' cousin); William Jones "of Nayland", prominent loyalist author (whose writings Stevens edited); Robert Nares, loyalist writer and – with his friend William Beloe – editor for many years of *The British Critic*; Jonathan Boucher, John Gifford (formerly John Richards Green), John Reeves and John Bowles.⁴⁹ However I believe that detailed scrutiny of the names of these supposed High Tories will show considerable differences of opinions, primarily between what could be described as Church and Tory tendencies. Those of the first tendency were concerned primarily with theological and church matters, and in politics stressed primarily the sacred nature of monarchy and the duty to obey it. They included writers like Stevens, Horne, Jones of Nayland, and Nares (though the latter's latitudinarian views did not satisfy the grouping around the Nayland vicarage and its offspring the so called "Hackney Phalanx", and eventually led to his dismissal in 1813 from editorship of the *British Critic*) – all clergymen or lay church activists. The second tendency, stressing the practical

⁴⁸ Mackintosh *Vindiciae* p. 385; [Belsham] *Historic* p. 74.

⁴⁹ Gunn *Beyond* pp. 175-177. Gunn's description should be approached with caution. It contains inaccuracies (such as Robert Nares' first name being given as John, and John Richards Green's first name being given as James), but far more important, it creates an erroneous impression of ideological homogeneity which some of the individuals included – such as Gifford and Bowles – certainly defied.

side of government and its genesis in power, included writers like Reeves, Gifford and Bowles who appear to be a group socially and ideologically distinct from the High Tories. Socially, these writers had close contacts with the High Tory circles, but they were at least as close to Burkean ones; intellectually, they could be found embracing terms and attitudes from the High Church and Tory tradition as often as professing devotion to Burke's ideas. Unlike the High Tories they had close contacts with government, especially with its ideologically Burkean wing of former Whigs like George Canning and William Windham. Reeves' ambiguous relation with Pitt's government has already been described, but when prosecuted he was publicly supported by Windham and Burke, and eventually was appointed as the King's printer. Gifford's and Bowles' relations with the ministry were more straightforward – both wrote pamphlets for the treasury, edited government-backed publications, and in time were awarded profitable posts as commissioners. But they too always maintained an independent and ideological position in their relation to government. Gifford, who in 1798 launched his monthly *Anti-Jacobin*, as a continuation of sorts to the similarly named weekly, previously published by Canning and his associates, made prominent his allegiance to Burke's ideas. He explicitly praised the *Reflections* in his writings, printed a letter from Burke to him as the preface to the 1800 edition of his *Letter to the Earl of Lauderdale*, and dedicated to Burke a book he edited (and perhaps wrote). Bowles, from 1793 editor of the pro-government newspaper *The Sun*, not only actively corresponded with Burke, but was linked to the political set closest to Burke, comprising William Windham, French Lawrence and Walker King.⁵⁰

⁵⁰ Montluzin *Anti-Jacobins* pp. 32-33, 110-111, 158-159; Sack *Jacobite* pp. 86-88, 93, 104, 198; Gifford *Erskine* pp. 1-2, 77-80; John Gifford, *A second letter to the Hon. Thomas Erskine* (1797) pp. 4, 34, 60; Gifford's *Lauderdale* edition of 1800 noted in the title the addition of "a preface, and an original letter from the Right Hon. Edmund Burke, to the author, explaining the much-perverted expression of 'The swinish multitude'". Bowles *Retrospect* pp. 300-302; Andrews *British* p. 148;

In fact, even if one or two more names are added to their number, the authors that can be clearly identified with High Tory ideas or circles are only a handful among the score and a half of writers who have identifiable connections with the established church. In some cases, when texts have very little theoretical content, it is impossible to assign to them a clear ideological relation, but where a theoretical framework is discernible, the great majority of Anglican writers do not subscribe to High Tory ideas, like the patriarchal origin of government, or principled non-resistance. In fact, these writers display a wide range of political ideas, on which their opposition to radicalism is based. These ideas include: an appeal to revive Aristotleanism; versions of Hobbes' principles; the "ancient constitution" tradition; and a defense of the existing order on largely practical considerations. To these might be added the "quasi-contract" notion of Josiah Tucker, which exerted a visible influence on the debate - notwithstanding the Dean's silence at this time (although he died in 1799, he was already 78 years old when the *Reflections* was published).⁵¹

COR vol. IX pp. 224-227. For Reeves' ideas about the degree of political danger from Catholics or dissenters, being in the Burkean tradition, see Sack *Jacobite* pp. 202, 227. For Gifford's and Bowles' distance from High Tories see Mori "Languages" pp. 33-58. Gunn himself notes that Bowles was, in idiom at least and probably not only, more Burkean than High Tory. See Gunn *Beyond* p. 176. Montluzin (on p. 33) lists Gifford, Bowles and Fitzjohn Brand among loyalist writers who had no significant dealings with Burke, except for sending for his perusal copies of their work and receiving "corteous but perfunctory letters of thanks in reply". But in Bowles' and Gifford's cases at least, the evidence above points to a more significant relationship.

⁵¹ Examples of clergymen supporting other political viewpoints are: Tatham, who turned to Aristotle for ideas of civil government, see Tatham *Letters* pp. 16-17; Samuel Cooper, who sounds Hobbesian when he stresses the need of absolute uncontrollable sovereignty in every state, see Cooper *First* p. 127; Charles Hawtrey, who supported a version of the ancient constitution argumentation, see Hawtrey *Various* pp. 72, 129; William Paley who in his anonymously published *Reasons for contentment, addressed to the labouring part of the British public* (1792) PW vol. VII pp. 219-226, defended the existing political order on the basis of a pessimistic evaluation of the practical succor that most men could expect in this world. Although Dean Josiah Tucker did not take part in the debate, the lasting presence of the ideas famously presented in his *A treatise concerning civil government* (1781), was shown by the need displayed by writers like Boucher, Young and even Rous, to address them explicitly - see Jonathan Boucher, "On Civil Liberty, passive obedience and non resistance" in his collection

This variegated ideological field suggests a number of considerations. First, the extent of variety in terms approaches and ideas was far greater in the loyalist than in the radical camp. It appears that, far from there being one dominant theoretical response to the challenges of revolutionary radicalism, the wide variety reflected a sense of inadequacy in High Tory or pragmatic responses, and a search for new ones. Second, it obviously means that the Anglican output cannot be simply reduced to the High Tory creed. These conclusions point to the need for a more detailed study of the Anglican output in order to determine if there can be ascertained within it one (or more) distinctive approach to the revolutionary challenge, and the relations of such approach (or approaches) to Burke's ideas. Although this avenue of study cannot be pursued fully here, it is possible to establish that while a number of Anglican writers openly adopted Burke and his ideas, others – especially among clergymen connected to the High Tory circle – were markedly less enthusiastic towards them.

of essays *A view of the causes and consequences of the American revolt* (1797) p. 531; Young *Example* p. 170; George Rous, *A letter to the Right Honourable Edmund Burke, in reply to his Appeal from the new to the old Whigs* (1791) pp. 62-64.

2. Debating Locke - the perception of Locke's ideas in the 1790s

Many tracts of the revolution debate from both radical and loyalist authors were aimed at particular, sometimes personal, targets. Some had nothing in them but transitory and inconsequential material. But from those pamphlets displaying even a limited theoretical orientation, one underlying theme emerging above all others was the attempt to interpret the Whig tradition and its defining moment, the 1688 revolution. Since at this time Whiggism had become synonymous with the mainstream and legitimate English political tradition, even those – like Thomas Paine – who claimed to reject it outright, were compelled to address it.⁵²

The fundamental argument – as defined among others by Burke – was about the correct interpretation of the Whig political tradition and the events of 1688: Were these to be seen as expressions of a revolutionary creed that had to compromise in the circumstances, or of an essentially anti-revolutionary outlook which had achieved and perpetuated its purpose? To a great extent, the core of this dispute concerned the status assigned to John Locke's political ideas – since their acceptance as the theoretical underpinnings of the Whig political order would tilt the debate about its nature very much in favor of one side. Indeed, an important characteristic common to many of the most important tracts – radical as well as loyalist – was the centrality assigned to the Lockean framework as the foundation of radical political ideas. It is to the examination of the substance and meaning of this common claim that the discussion must now turn.

⁵² [Anonymous], *A brief reply to the observations of Ben. Bousfield, esq., on Mr. Burke's pamphlet respecting the revolution in France* (1791) PW vol. VII p. 47, described the two accepted definitions of what is a Whig: the first is a person bound to oppose "every arbitrary stretch of power" and to keep the several branches of the constitution separate and independent of each other. The second is the more general appellation of the supporters of the House of Hanover. Since the second applied to all subjects who had not proved themselves otherwise, it is by the first definition that real or fictitious Whigs were to be judged".

Although the debate over Locke's ideas and intentions continues today, the mainstream of current research can be fairly represented by the position of scholars such as H.T. Dickinson, R. Ashcraft and J. Dunn. Their scholarship has established that the vast majority of those, either Whigs or Tories, who in 1689-1690 debated the meaning of the revolution, subscribed to a moderate and pragmatic reading of events as a defense of the established order, combining (sometimes confusedly) ideas of contract, possession, abdication and conquest. John Locke's *Two treatises of government* (1690), which repudiated these very doctrines, was part of a small (but not unimportant) minority of those described in scholarship as "radical Whig writers" that contemporaries clearly perceived as expressing an extremist political perspective. Furthermore, although radical Whigs of the late 17th century had propagated notions of the liberty of the subject, only Locke developed a political theory, apparently coherent, and with a considerable revolutionary potential. Unlike other radical Whigs, Locke did not stop at locating sovereignty in the combined legislature of King, Lords and Commons. Instead, he granted authority to the legislature only as long as it did not abuse the trust placed in it by the people, with which sovereignty ultimately lay, and which could reclaim that authority if it deemed its natural rights threatened. Thus Locke effectively asserted a right of resistance or, in other words, revolution. In addition, Locke's granting of this right of resistance to all men (not only the propertied) implicitly assumed that the natural equality of men was the basis for all true discussion of political representation. These political views of Locke's, although he did not fully articulate their radical import, were understood and certainly regarded as too radical to be endorsed by the majority of the Whig party. Locke's *Two treatises* attracted only limited attention at the time of their publication, and few of his contemporaries directly quoted Locke's views, whether approvingly or less so. But it would be wrong to suggest that Locke did not exert some political influence. By

1690, three editions of the *Two treatises* had appeared, and the contract theory was certainly debated in the late 17th and early 18th century. Furthermore, Locke's ideas did not completely disappear from circulation. Aided by the indirect agency of popularizations such as the highly influential pamphlets, *Political aphorisms* (1690), and its later re-publication in altered forms, first as *Vox populi, vox Dei* (1709) and then as *The judgement of whole kingdoms and nations* (1710). Under its different guises and names, this was one of the best-selling pamphlets of the 18th century, with subsequent editions appearing also in 1747 and 1771. Thus, whereas Locke was once viewed as "the philosopher of the Whig party", scholarship has established that in his lifetime he was actually among its radical fringes, and that for a long time afterwards, his political ideas informed and influenced principally the radical circles of Hanoverian England.⁵³

However, by the middle of the 18th century, Locke had become widely accepted as a bearer of mainstream Whig principles. Ironically, this transformation of Locke's reputation owed a great deal to a long eclipse of his political ideas. As the Whig political order increasingly became the establishment – particularly so after the 1714 accession of the House of Hanover to the British crown, and the subsequent cessation of the great Tory-Whig political debates of the early 18th century – the disputation about the meaning of 1688 lost its relevance. Hence, as the never especially widespread interest in Locke's *Two treatises* lessened, his reputation came to rest more and more on his epistemological *Essay*. The result was that progressively through the 18th century, the status of the *Two treatises* was supported more by the esteem towards the *Essay* than by the actual reading and treating of the

⁵³ Dickinson *Politics* pp. 195-196; R. Ashcraft, "Locke, revolution principles, and the formation of Whig ideology" in *The Historical Journal* 26 (1983) pp. 774-775; R. Ashcraft, *Revolutionary politics and Locke's Two treatises of government* (Princeton, Princeton University Press, 1986) pp. 572-573, 585, 589. It is important to note that *Political aphorisms* was not merely influenced by the *Two treatises*, but rather to a great extent was a plagiarization of it, taking long, unacknowledged, verbatim passages from the latter.

political ideas in the *Two treatises* – what J. Dunn describes as a “slackly ideological reading” of the book.⁵⁴

By the second half of the mid-18th century, the name of John Locke had become an accepted source of intellectual authority underpinning the long Whig political ascendancy, while at the same time informing the opinions of those groups of radicals who were opposed to this very settlement. This latent contradiction emerged when, during the 1760s and 1770s, Locke’s ideas started to be publicly employed as authority for new and radical political demands. This is evidenced from the first pamphlet calling for parliamentary reform in 1766, the anonymous *Reflexions on representation in parliament*, through James Burgh’s 1774 *Political disquisitions*, one of the most influential radical tracts of the time, and up to John Wilkes, the most popular campaigner for political reform of his age, who in a famous speech of 1776 quoted two whole paragraphs from Locke. Furthermore, by the 1770s the employment of Locke in demands for political reform in England became increasingly intertwined with the issues raised by the American conflict, such as illustrated by the most widely read radical pamphlet of the period, Richard Price’s tract *Observations on the nature of civil liberty* (1776).⁵⁵

⁵⁴ John Dunn, “The Politics of Locke in England and America in the eighteenth century” in J.W. Yolton (ed.), *John Locke: problems and perspectives* (Cambridge, Cambridge University Press, 1969) pp. 57-59.

In a letter of September 1791 to Henry Dundas, Burke gave his own view of the history of the radical fringes of the Whig party. Describing “the Republicans” of England as having been, for the first time since the civil war, “embodied under the French standard” by the revolution, to create a party, he remarked that “[u]ntil then they were individuals who hung upon the whigg [sic] party, and by that party were lookd [sic] upon as absurd and visionary men of no sort of consequence”. It is interesting to consider what place should be assigned to Locke and his ideas within such a description. See COR vol. VI p. 420.

⁵⁵ Kramnick “Republican” pp. 637-640, 649; H.V.S. Ogden, “The state of nature and the decline of Lockian political thought in England, 1760-1800” in *The American Historical Review* 46 (1940) pp. 32-32. Another example of the appeal to Locke is Matthew Robinson-Morris, Lord Rokeby’s anonymously published pamphlet, *Considerations on the measures carrying on with respect to the British colonies in America* (1774). The text, dealing with the legitimacy of taxing the Americans, is very Lockean in argumentation and language, describing British MP’s as “our trustees and guardians”, claiming current problems caused by the English “having taxed those colonies without their consent” and describing such principles as “the

It appears that the great political convulsion caused by the rebellion of the American colonies was for many in England the trigger for a re-evaluation of accepted political tenets, including Locke's authoritative status. Indeed, Jonathan Boucher, a loyalist pamphleteer on both sides of the Atlantic and an acute observer of the revolutionary debates, asserted in 1797 that the unraveling of Locke's long-lasting prestige as England's unassailable great political thinker was a result of the re-examination of political ideas occasioned by the American conflict. Boucher asserted that "[t]ill the American war, he [Locke] was looked up to as an oracle: and the whole nation implicitly pinned their faith, in politics, on his dogmas". But as that war caused men to examine things for themselves, the "infallibility" ascribed to Locke was considerably lessened. Then, Boucher continued, in 1781 Josiah Tucker's *A treatise concerning civil government* so successfully savaged Locke's ideas that since then "writers in general venture to read Mr. Locke, as they do other authors, without being overawed...". Whatever the truth in Boucher's analysis of causation for the more general unraveling of Locke's prestige, Tucker's *Treatise* certainly brought about a great number of publications arguing for and against Locke's political principles, and by the late 1780s it was clear they were being challenged as the accepted interpretation of the English constitution.⁵⁶

principles of Whigs" – stressing that "I mean of Whigs before the Revolution and at the time of it; I mean the principles which such men as Mr. Locke, Lord Molesworth and Mr. Trenchard maintained with their pens, Mr. Hampden and Lord John Russell with their blood and Mr. Algernon Sidney with both". See pp. 3-4, 9-10, 138-139.

⁵⁶ See Boucher "Civil" p. 531, in footnote. For the assaults on the consensus about the nature of British government, around 1776, see Gunn *Beyond* pp. 172-173. I. Kramnick proposes that Locke's themes were politically revived in the later half of the 18th century by English reformers. See Kramnick "Republican" p. 655. Dickinson remarks that radicals of the later eighteenth century, like James Burgh, Richard Price, Joseph Priestley and Thomas Paine, adopted Locke's theoretical concepts as the foundations for the political reforms they were advocating. See Dickinson *Politics* p. 196. For the controversy initiated by Josiah Tucker, around Locke's political ideas, see below note 160.

Essentially, as long as the Whig political settlement remained unchallenged, Locke's authority was widely accepted without his views on the origins of government being subjected to much scrutiny or discussion. This attitude is evidenced by mainstream figures like the elder William Pitt, who in the 1750s recommended the *Two treatises* to his nephew Thomas, then at university; and like William Blackstone, who in his *Commentaries*, published in 1765, endorsed some of Locke's central political tenets (though with significant reservations, and caveats).⁵⁷

It is a measure of the status Locke had attained, as well as of the complacency of the political establishment, that this unquestioned acceptance persisted for some time even after the 1770s had made the practical political implications of his ideas quite clear. For a long time yet, there could be found not a few instances of those displaying a seeming incapability of grasping the obvious divergence between Locke's ideas on the origin of government and their implications for the legitimacy of the 1688 Whig settlement, even when those very ideas were being explicitly stated. A good example of this inability, was offered as late as the eve of the French revolution (during the regency debates of 1788), in a tract that criticized the policies of Charles James Fox as undermining the Whigs'

first principles, such as are to be found of our Constitution as mentioned by *Mr. Locke*, and as established at the Revolution. In the first place, That all power is derived from the people; and the power itself being always in them, they may make or alter any form of government. That there is no natural right in one man to govern another but that is by institution, force, or consent.⁵⁸

⁵⁷ Dunn "Politics" pp. 57-59. See also Dickinson *Liberty* pp. 132-133, and Sack *Jacobite* p. 10.

⁵⁸ [Anonymous], *Fox against Fox !!! Or the political blossoms of the Right Hon. Charles James Fox* (1788) pp. vii-ix. About the widespread acceptance of Locke's ideas as representing the Whig principles, see for instance Gibbon's remark "Locke's treatise of Government instructed me in the knowledge of Whig principles, which are rather founded in reason than experience" in Edward Gibbon *Memoirs of my life* (Thomas Nelson and Sons publishers, 1966) p. 78. See also Gunn *Beyond* p.173, and R.W. Harris, *Political ideas 1760-1792* (Collancz, 1963) pp. 15-16. Even during the 1790s, Fox and Erskine could be found attempting – albeit with diminishing success – to evoke Locke's name as standing for both the Whig mainstream and the principles

And so, the text was attempting to defend the constitutional setting of its time as based on the actualization of Locke's principles in 1688, oblivious to the possibility that someone might demand the same actualization again.

Nevertheless, as Locke's ideas became more relevant, they were increasingly challenged. This process greatly intensified when the debate on the revolution in France brought forward a far more significant challenge to the acceptance of Locke's ideas, since their possible identification with revolutionary principles implied that they might be seen not merely as an incorrect interpretation of the British constitution, but as a mortal threat to it.

When coming to discuss the place of Locke's ideas within the writings of the 1790s, there is of course the question of which texts among those who do not treat him or his ideas explicitly should be viewed as "Lockean". An eminent example is Thomas Cooper's *Propositions respecting the foundation of civil government*, a text obviously Lockean in many of its ideas and terms, with a title evidently referring to the *Second treatise's* sub-title, which nevertheless does not mention Locke or his works. Among loyalists too abound cases of attacks on obviously Lockean terms and ideas without Locke being mentioned. Such is the anonymous *Remarks on Mr. Paine's pamphlet*, warning from the various absurdities and multiplied confusions resulting from the doctrine of man "possessing his natural rights in a state of society, and being judge in his own case as to their exercise". Since an adequate treatment of such indirectly "Lockean" material falls outside the scope of this inquiry, and since I hope to prove satisfactorily the centrality of Locke's ideas within the debate about the revolution by employing texts which address them



explicitly, the following discussion will employ indirect Lockean texts such as Cooper's, only as adjunctive support.⁵⁹

It is to be regretted that the main scholarly collection of sources for this period, G. Claeys' eight-volume *Political writings of the 1790s*, covering 127 texts, presents an effective obstacle to a thorough consideration of the Lockean aspect of the revolution controversy. Claeys under-represents this aspect of the debate in both the choice of texts included and the interpretation of it that he offers in the introductory essay. Thus, while texts by important radicals as Mackintosh, Christie, Priestley, Price and others appear in the collection, the fact that they all treat Locke in their works is neither stressed nor even discussed by Claeys. Indeed the under-representation becomes qualitatively misleading in the case of the loyalist side of the debate, where some of the most important texts extensively addressing Locke's ideas are missing from the collection – among these Samuel Cooper's and Edward Tatham's works, deemed by contemporary opponents such as Mackintosh as central to the loyalist argumentation. Indeed Claeys himself describes Tatham's *Letters* as an especially notable loyalist work of the period, but does not reproduce it in the collection. Moreover, in the introduction Claeys offers no hint to indicate that the absence of a discussion of the Lockean aspect, or the exclusion of many important tracts treating Locke, was determined by editorial or other practical considerations. This minimization of the Lockean aspect of the revolution debate may be due to Claeys' belief, expressed in a previous work on the debate, that the discussion of Lockean contract theory, though extant in the political writings of the 1790s, was of secondary

⁵⁹ Thomas Cooper's *Reply* pp. 93-100 reprinted as an appendix to this 1792 pamphlet, the text of *Propositions respecting the foundation of civil government* originally published in 1790; [Anonymous], *Remarks on Mr. Paine's pamphlet, called the Rights of man. In a letter to a friend* (1791) PW vol. V p. 33. Another case was Gerrald, who claimed for British rights the "two-fold sanction of reason and antiquity", mixing Sidney and Locke. See [Joseph Gerrald? – attribution uncertain], *The address of the British convention, assembled at Edinburgh, November 19, 1793, to the people of Great Britain* (1793) PW vol. IV pp. 86-92.

importance next to “the relationship between economic inequality and social progress” defined in terms of the Scottish discourse of commerce and manners. However, such a view should first explain the fact that so many of the most significant tracts of the period, seem to assign such importance to the Lockean aspect of the debate. Unfortunately, since Claeys does not address the issue in his discussion of the collection, the question remains unresolved.⁶⁰ Among the 270-odd texts addressing the revolutionary controversy, which I have reviewed for the purposes of this dissertation, about 60 mentioned Locke explicitly. Only some of those 60 texts treated Locke’s ideas substantially, but many that did were among the most significant texts of the debate – including tracts by Price, Priestley, Mackintosh, Christie, Rous, Thelwall Thomas Erskine and Towers on the radical side, and Tatham, Samuel Cooper, Barwis, Bowles, Gifford and Cusack Smith on the loyalist side. Indeed, on the radical side the dozen or so authors whose texts were most often referred to by other radicals and attacked by loyalists writers turn out to have nearly all referred explicitly to Locke and his ideas in their works, often patently embracing them. In addition, many of the publications by the two most active radical societies, the SCI and the LCS, mentioned Locke as a source of authority, and often used verbatim phrases by him. On the loyalist side too, among the most important tracts, the treatment of Locke’s ideas, if less universal, was still prominent.⁶¹

⁶⁰ PW vol. I pp. xxviii-xix; Claeys “French” pp. 60-61. A different view of Locke’s role in the debate is Dickinson’s, who claims that the 1790s radicals still appealed to Locke, but the most influential among them developed two newer claims, the first stressing not historical but natural and inalienable rights of all men, the second demanding reform on utilitarian criteria. It appears to me that the first development was not new at all but a full acceptance of Locke’s claim of juridical natural rights instead of the claim for historical rights by such as Sidney – to which Locke had never subscribed. See H.T. Dickinson, *Liberty and property* (Methuen, 1977) p. 240.

⁶¹ The most important radical texts of the 1790s appear to be those by Paine, Priestley, Price, Rous, Christie, Mackintosh, Parr, Godwin, Lofft, Towers, Stuart, Yorke and Thelwall. On Paine’s Lockeanism see below. Even Godwin, the only one among the above to reject some of Locke’s main ideas – but accepting others – debated with them while addressing Locke

Before proceeding to the detailed discussion of these texts and their meaning, the two conspicuous exceptions to the explicit treatment of Locke, should be addressed - Burke and Paine. Burke's treatment of Locke in virtually all he ever wrote deserves a separate discussion, and will be treated later in detail. Here it suffices to point out that Burke's total silence on Locke in his writings of the revolution debate, even in the *Appeal* (a text explicitly directed at interpreting the meaning of 1688 and enumerating a long list of many half-forgotten names, as those of the true bearers of old Whiggism), and even when repeatedly attacked as anti-Lockean, speaks quite loudly about how unlikely is it that such an attitude was merely incidental.⁶²

In Paine's case, his obvious debt to Locke's contract theory as the basis for concepts and even nomenclature of the political doctrine he propounded in the *Rights of man* (although, unlike Locke, Paine spelled out fully the theory's radical political implications), was wedded to a furious denial of influence on his ideas by other writers. I suspect that the motive for this adamant and curious denial – for which his opponents derided him – might be that, acknowledging any determining influences on him by past writers could be construed as the one thing Paine most violently denounced in his political writings, some kind of authority of the past over the present.⁶³

favorably. See for example his objection to Locke's notion of tacit consent, in *Political justice* (1793), book III chapter 2, "On the social contract". For his agreement with some of Locke's ideas, see book I chapter 2, "History of political society". The above list of radical authors is of course open to challenge on some of the latter names, however, even if one or two authors are exchanged, the general trend remains the same. Moreover, the new names would probably be those of other Lockeans, like Wollstonecraft, Williams or Bousfield. About the publications of the SCI and the LCS see Kramnick "Republican" pp. 649-650.

⁶² Burke's treatment of Locke is discussed extensively in the next chapter.

⁶³ PW vol. I pp. xxxi-xxxii. For Paine's plain Lockean concepts see especially *Rights* pp. 85-90. For derision of Paine's claim not to have been influenced by other thinkers [Anonymous], *A fourth letter to Thomas Paine in answer to the second part of the rights of man: by the author of Letters to Thomas Paine, in answer to his late publication on the rights of man: shewing his errors on that subject, and proving the fallacy of his principles as applied to the government of this country* (1792) PW vol. VI p. 305 where he was sardonically termed "a philosopher by instinct". See also [David Rivers], *Cursory remarks on Paine's Rights of man* (1792) PW vol. VI p. 130; and [Anonymous], *A defence of the constitution of England against the libels that have been lately*

There were numerous instances in which Locke appeared in radical tracts only as a name among other noted thinkers, such as when William Belsham, rejecting Burke's reproach to the French revolutionists for "calling in the aid of philosophy" when framing their new government, rhetorically asked "were not LOCKE, HUME, MONTESQUIEU, and FRANKLIN, philosophers?", or when Mackintosh rhapsodized about "the Lockes, the Rousseaus, the Turgots, the Franklins, the immortal band of preceptors and benefactors of mankind".⁶⁴

At other times Locke's name seems to have been invoked with other names, in order for it to imply something about them. In some instances Locke is paired with one or both of the politically far more controversial figures of James Harrington and Algernon Sidney – both avowed republicans, and associated with the commonwealth regime – in what appear as attempts to legitimize the latter two by association with the former. Such is the case when Parr asserted – against Burke's wariness of theoretical speculation in politics – that political theory could be of general use, when conducted by "men of ability and virtue, by a Locke, a Sidney, and even a Harrington"; or when Joseph Towers extolled "the Lockes and the Sydneys" who had contributed to diffuse the spirit of freedom. In other cases Locke's name was paired with the name of Lord John Somers, one of the political leaders of the 1688 Whigs. Thus Priestley claimed that in the 1688 revolution, "Lord Somers, Bishop Hoadley, Mr. Locke, and many others, have laid it down as a maxim, that all power in any state is derived from the people, and that the great object of all government, is the public good"; or when Christie contended that Burke's

published on it; particularly in Paine's pamphlet *on the Rights of man* (Dublin, 1791, reprint) PW vol. V p. 8. For Paine's political theory in the *Rights of man* being essentially that of John Locke, see Ogden "State" p. 39. For Paine adopting Locke's notions of natural rights, contract and popular sovereignty, while augmenting their radical aspects – such as arguing that consent should be active and not merely passive – see Dickinson *Liberty* pp. 243-244.

⁶⁴ [Belsham] *Historic* pp. 95-96; Mackintosh *Vindiciae* p. 371.

alleged affinity to Lord Somers' Whiggism was only apparent, and that Burke's sentiments were actually those of the Tory party of 1688.⁶⁵ Such pairings of Locke's name with Somers drew their significance from Burke's depiction of himself, in the *Reflections* and even more in the *Appeal*, as the political heir of the 1688 Whigs, among whom he awarded Somers a prominent position. Obviously, connecting Somers' views to Locke's would have both secured the association of the latter with the mainstream "Old Whig" leadership of 1688, while decisively refuting Burke's own interpretation of the events and his claim of political descent. Somers' alleged authorship of the Lockean *The judgment of whole kingdoms and nations* (1710) was the principal source for the view that he subscribed to Locke's political theory. This attribution, which scholarship has since convincingly refuted, seems to have been held as dubious even in the 1790s. However, Priestley, Christie and other radical writers appear to have held Somers' possible authorship as expedient, so that by quotes from the text showing it supported such notions as "natural rights of men" and government as "trust", they could identify 1688 and Somers with Locke, while positioning Burke in opposition to them.⁶⁶

⁶⁵ Parr *Sequel* p. 96; Towers, *Thoughts on the commencement of a new parliament. With an appendix, containing remarks on the letter of the Right Hon. Edmund Burke, on the revolution in France* (Dublin, 1791, reprint) PW vol. I pp. 71-120; Priestley *Letters* p. 330. Christie *Letters* p. 165 (renders name as "Sommers"). Bishop Hoadley's (mentioned by Priestley with Locke and Somers) case was altogether different from Somers' - after having delivered a famously Lockean sermon, published in 1705 as *The measures of submission to the civil magistrate considered*, Hoadley had been acknowledged as a Lockean, and Burke never claimed him as an ideological predecessor. See Ashcraft "Locke" p. 786.

⁶⁶ Priestley *Letters* p. 335; Christie *Letters* pp. 165-166; Thelwall *Rights* pp. 447-448 ff. It is hard to see how Burke could have maintained his views on Somers, unless he held the said attribution of authorship to be spurious. But some scholars still adhere to this attribution. J.C.D. Clark for one, in a note to his edition of the *Reflections* claims that Somers' ideas were "far more extreme" than Burke appreciated. Clark brings as proof for this claim two texts "generally ascribed to Somers": *A brief history of the succession to the crown of England* (1688/9), which noting the many instances of parliament in regulating and changing the succession to the crown concludes that parliament had an unquestionable right to limit, restrain or qualify the succession; and the *Judgement*, which holds a position close to kingship being elective. Clark's conclusion is that Burke's attitude to Somers may have owed more to the latter's

In other cases yet, Locke's name was mentioned in conjunction with that of his most famous ideological opponent, Sir Robert Filmer, with the apparent intent being to imply an affinity with Filmer's absolutist views, in those opposed to Locke's heirs. Such is the case when Belsham ends one of his pamphlets adopting towards Burke "the words of Mr. Locke, in speaking of Sir Robert Filmer". In a manner suiting his outspoken views and style, we can find Thelwall condensing, within a few passages, all of the aforesaid uses for Locke's name: accusing Burke of holding aristocratic views, and therefore entailing that "what have been called the principles of that [1688] Revolution, it seems they are mere trash! Visions and afterthoughts of Lock [sic] and his disciples !"; adding (somewhat inconsistently with the accusation of supporting aristocracy) against Burke a charge of similarity with Filmer's support of despotism; and finishing off with praise of the fact that "the reformers and the innovators of the [1688] age, with Somers, Locke and Sidney at their head, appealed to the code of Nature for more genuine principles; and the clouds of sophistry were scattered by the rays of truth".⁶⁷ However, in addition to the general and mainly rhetorical uses of Locke's name exemplified above, there can also be found among the radical texts many instances in which his name and ideas are employed in serious attempts to present a theoretical framework for the political opinions presented.

reputation rather than an actual perusal of his writings. See Clark *Reflections* p. 168 n. 83. However, Burke's attitude seems quite plausible, as it was based on the perusal of the views Somers publicly owned to, instead of on two anonymously published texts' of uncertain attribution. Furthermore, even if Burke allowed Somers' authorship of the *Brief history* this would not have presented a significant problem, as the idea of regulating the succession to the throne (for example by restricting it to Protestants only) was something Burke did not deny, and in fact explicitly defended. It is only the hardly attributable *Judgement* that was really inconsistent with Burke's principles. For a discussion of the *Judgement* and of the unlikely authorship of Somers, see Ashcraft "Locke" pp. 773-775, 792-793, and 800 (where Daniel Defoe is tentatively suggested as the likely author).

⁶⁷ Parr *Sequel* p. 96; Priestley *Letters* p. 330; [Belsham] *Historic* pp. 95-96; Thelwall *Rights* pp. 445, 447-448. For more examples of such employment of Locke's name, see Mackintosh, *Vindiciae* pp. 364-365, and William Belsham, *Examination of an Appeal from the new to the old Whigs* (1792) p. 94.

Among the most overtly Lockean texts, was James Parkinson's anonymously authored 1793 pamphlet *The village association*, a text ridiculing loyalist claims and extolling revolutionary ideas, written in sardonic mock-popular style, evidently directed at the educated public. Nearing its end, the tract changes tone, and an earnest voice is introduced as a monologue by a character (the "curate") which, attempting to show that revolutionary ideas are not at all new, but in fact enjoy a distinguished pedigree, declares: "Do not, my friends, imagine this to be a new fangled doctrine: peruse the writings of the immortal LOCKE who wrote in support of that constitution, which we all so much admire, and there you will find the same principle, though perhaps exprest [sic] in more forcible and energetic language". And then, as proof for this claim, produces four extensive and verbatim quotes from sections 224, 226, 228, 240 of Locke's *Second treatise* – or as it was usually referred to at this time the "discourse on civil government".⁶⁸

Another example of such a direct and extensive use of Locke's name and ideas as support for a serious claim is provided by the anonymously authored *The political crisis: or, a dissertation on the rights of man* (1791), which, in its attempt to give an account of the character and development of human society drew directly from the writings of Locke (and to a lesser extent Paine and Priestley). For a number of pages, passages from Locke's *Second treatise* are brought as proof that: the first step towards creating society was the voluntary compact between man and wife (sec. 105); at the founding of society, mainly in order to protect life and property, natural rights were "exchanged" but not reduced (sec. 131); these rights deposited in society are

⁶⁸ [James Parkinson], *The village association of the politics of Edley. Containing the soldier's tale; the headborough's mistake; the sailor's tale; the curate's quotations; and old Hubert's advice* (1793) PW vol. IV p. 46. For an additional use of quotes from ST (sections 224, 225), as justification for resistance and revolution, and for the claim that "WHAT HAS BEEN CONSTITUTIONALLY DONE AT ONE PERIOD, MAY BE DONE AGAIN", see pp. 83-84 of Henry Yorke's *Reason urged against precedent, in a letter to the people of Derby* (1793) PW vol. IV pp. 67-84. For the ST being referred to as "Discourse on civil government" see CST vol. XXV pp. 676-679.

termed political and include the right of every man to judge in his own cause, the right to make treaties and so on, and man can delegate only his own power (sec. 135); society can never lose “the native and original right it has to preserve itself”, and if government derogates from its ends it is dissolved and the obligation of the subject to authority ceases (sec. 149); and religion too is a natural right (sec. 123).⁶⁹

Deserving of a significant place within the range of radical publications, and their appeals to Locke, are the pamphlets which during the 1790s reported the trials of radical writers and activists, such as Thomas Paine, John Muir, Thomas Hardy, Henry Redhead Yorke and others, on charges ranging from sedition through conspiracy to high treason. These pamphlets offered an exceptional opportunity of putting to paper the extreme radical popular views, for which authors were being tried (and often convicted) – while the pamphlets’ purporting (not always accurately) to be reports of official legal proceedings, shielded them from prosecution. An added benefit for radicals was that the arguments for the legitimacy of their views and of their being expressed, was many times coming from the mouth of such a respectable and mainstream figure as the counsel for the defense, Thomas Erskine.⁷⁰

In these trials, and in the pamphlets reporting them, John Locke and his ideas were repeatedly and prominently appealed to. Both Erskine, as counsel for the defense in most trials, and those defendants (like Yorke and Muir) who undertook their own defense, frequently employed as a central argument the claim that they were being charged for merely reiterating the principles of “the immortal Mr. Locke”. Often, these appeals to Locke were not limited only to general statements about the British constitution, but attempted to make particular political claims. Such was the case when Erskine claimed,

⁶⁹ [Anonymous] *The political crisis* pp. 116-119.

⁷⁰ Pamphlets were published reporting the trials of Paine, Muir, Hardy and Yorke. Thomas Erskine (1750-1823) was a prominent lawyer and Foxite MP, who Burke described in a letter of 1792 as “outrageously French”. See COR vol. VII p. 315.

during Thomas Hardy's trial, that the right to equal representation "stands upon the authority of Mr. Locke"; or when during Yorke's trial, the latter, defending himself, attempted to prove the constitutional probity of his claim that "consent" was the basis of government, by quoting directly from sections 138 and 140 of Locke's *Second treatise*.⁷¹

Closely related to such attempts at legitimizing demand for radical political changes in England by associating them with Locke, were the more ambitious claims endeavoring to show that even the French revolution was predicated on English and indeed on Locke's political principles. Such was the case with Joseph Towers' anonymous *Dialogue*, where the Mordaunt character inquired as to why the "French principles", gave so much alarm to those who opposed them, since these principles, that "[a]ll men are born, and remain, free and equal in rights", that the end of all social distinction is the preservation of the natural rights of man, and that the principle of sovereignty resides essentially in the nation, "appear manifestly to have had their origin in England", and are in fact those of Sidney and Locke. William Fox's *The interest of Great Britain* (1793) went even further, asserting that the principles of the revolution in France, according to which men are all "*free, equal, and independent*", did not originate from the French declaration of the rights of man, but rather "from the celebrated Mr. Locke's Treatise on Government, written avowedly for the purpose of defending the English revolution; and for writing which, he was rewarded with a *thousand* a year, from the British government". The same claim was reiterated by Erskine who in his speech at Hardy's trial (later published as a pamphlet), asserted that the radicals' demands for rights were

⁷¹ CST vol. XXIV p. 925, vol. XXV pp.669, 676-679, 1099-1100. Additional examples are Erskine's extensive use of quotes from ST sec. 192, 221, 222, 223, 224 and 225 during John Horne Tooke's trial; and Thomas Muir's long quote from ST sec. 222, in his own defense. See CST vol. XXV pp.676-679, vol. XXIII p. 192.

drawn “from the revered work of Mr. Locke, and not from the revolution in France”.⁷²

Treatment of all cases and aspects to be found in the 1790s texts, which touched on Locke’s ideas in a substantial fashion cannot be undertaken here, but it is possible to identify a number of core political concepts, repeatedly addressed and justified by references to Locke. The most salient among these were: (i) social contract (or compact); (ii) government as trust from the people; (iii) consent as the source of political authority; and (iv) natural rights.⁷³

(i) **Contract** - to illustrate the complexity surrounding the use of the term contract, (appearing also as compact) within the revolution debate, it is sufficient to note that far from being a merely Lockean idiom, the term could carry among its many different implications the biblical covenant, the Hobbesian compact, the 1688 political settlement (in which the term “original contract” was employed by the resolution of the Commons, although not part

⁷² [Towers] *Dialogue* pp. 7-10; William Fox, *The interest of Great Britain, respecting the French war* (1793, 3rd edition) pp. 8-10. CST vol. XXIV pp. 923-924, vol. XXV p. 679. Towers’ claim was adopted by the reviewer of his pamphlet in the *Analytical Review*, who asked if it is wise to carry on a war against the “French principles” when it means attempting to “eradicate the principles of Sidney and Locke?”. See Andrews *British* p. 160. For another claim that the French revolution was the expression of British political principles (although Locke is not mentioned), see Belsham *Examination* p. 40.

⁷³ These themes were identified as central to the Lockean view, and connected directly to Locke’s writings, as early as 1690 when the influential and popular pamphlet *Political aphorisms*, after assaulting the doctrine of passive obedience, put forward its own principles as - the right of the people to resist the King’s violation of the original contract, power reverting to the people when the trust of government is dissolved, consent of individuals as the foundation of all government, and the equality of individuals in the state of nature. As noted above, the text was to a great extent a plagiarization of Locke’s *Second treatise*, bringing long (unacknowledged), verbatim passages from it, and R. Ashcraft calls it “an essentially Lockean defense of revolution principles”. Under different names and versions the text was one of the best selling pamphlets of the 18th century with subsequent editions appearing as late as 1747 and 1771. See Ashcraft, “Locke...” pp. 773-774. Radicals of the late eighteenth century, like James Burgh, Richard Price, Joseph Priestley and Thomas Paine, adopted Locke’s theoretical concepts as the ideological foundations for the political reforms they were advocating. According to Dickinson, these radicals “believed they were merely reiterating Locke’s views when they claimed that the doctrine of natural rights, the contract theory and the concept of popular sovereignty (which were all to be found in Locke’s writings) were the ideological foundations of a democratic system of government...”. See Dickinson *Politics* p. 196.

of the final declaration of parliament) or Rousseau's *Contrat social*. In addition, the term could be employed alternatively to describe the relations between all individuals in society (what might be termed the social contract proper), or the relations between the people and their rulers (what might best be termed as the political contract), or a combination of the two. Often, writers made it impossible to discern which of these (or which combination), was meant. Consequently, there is many times a real difficulty in determining what those employing the term meant to convey, even at the most literal level. Indeed as will emerge later, many authors devoted some passages in their works to what they saw as inexact renderings of the term by others. In order to clarify matters, it is best to keep in mind that the whole discussion of contract revolves around the problem of obligation – who are obliged to whom, and in what consists their obligations. Locke tended to term society or “community” (relations between all individuals) as a contractual relation, while attempting to cast political relations as a trust (which is not a contract, and obliges only the trustees). Burke on his part stressed that both social and political relations were one contractual obligation (of what kind shall be later discussed), the “engagement and pact of society, which generally goes by the name of the constitution”.⁷⁴

Thus the main theme discernible among those radical writers who discussed the term contract was an effort to prove the dissolvability of the political contract – mainly by associating it with terms such as “trust” or “consent”, which implied a conditional in the agreement (the first a conditional in the collective, the people; the second possibly, though not necessarily, implying a conditional in the individuals) – against a perceived challenge from those who viewed the contract as establishing an irrevocable obligation. Some

⁷⁴ P. Laslett (ed.) *John Locke, Two treatises of government* (Cambridge, Cambridge University Press, 1988) pp. 113-116. See also ST sec. 149, 221, 240; *Reflections* pp. 104-106.

radical writers, prominent among who were Priestley and Paine, put in explicit terms what Locke had mainly implied. They united the claim that the concept of contract was being misunderstood, with their attempt to prove the dissolvability of government. They did this by describing what they held as a widespread confusion between what were two distinct elements of the social contract, in effect two contracts: a “civil” contract between all individuals establishing society, and a “political” contract between the society and its rulers. This made it possible for them to maintain that while the governmental contract was dissolvable, this did not have to result in total anarchy and destruction of society, since society remained standing, irrespective of government. The potential, one might say invitation, for revolution with such theory was unavoidable. Priestley did not shirk from explicitly pointing this out – asserting that the people have a capability of resuming for themselves the political power that the contract had vested in the King, since they may “surely recall a trust that has been abused”. Hence, if the King breaks the “compact” between himself and the people, his rank and privileges are “forfeited”.⁷⁵

Other radicals went in the same direction without being so explicit. Belsham accused Burke of misusing the ambiguity of words by his associating to the term contract ideas suitable to a bargain and sale of cattle, which, once concluded “must be adhered to however eventually disadvantageous to either of the contracting parties”. Instead, Belsham opined, the Whigs of 1688 used the term contract to express “the reciprocity [sic] of obligations which must subsist under every legitimate form of Government, between the governors and the governed”. Rous too censured Burke, for his apparent support for “a sort of irrevocable compact”, a view, the former implied, suspiciously close to that of those contending for supreme divine right of

⁷⁵ Joseph Priestley, *An essay on the first principles of government and on the nature of political civil and religious liberty* (1771, 2nd edition) p. 9; Priestley *Letters* p. 334; Paine *Rights* pp. 165-166.

kings. Similarly, Charles Pigott, connected contract to the notion of trust, albeit without using the latter term, in order to explain that whenever the laws become men's "scourge and misery, the obligation ceases; - the compact is dissolved", the principle of non-resistance is "exploded", and "the people reverting to their original inalienable rights" are bound to resist oppression, and "resume the reins of power". And Thomas Cooper – writing in recognizably Lockean idiom without explicitly mentioning Locke – went even further, making the test for dissolving the contract not the people's interests but only their will, claiming that unless the "compact" is the expression of the consent of the people, it is tyranny and hence illegitimate.⁷⁶

(ii) **Trust** – as already observed in the discussion of contract, radicals raised the notion of government as a trust for the people, wishing to prove the constitutional setting of the state could be voided by certain actions of those in government. The concept of trust means that really there is no political contract at all. It makes government merely an agency of the people. Most radical writers did not put matters so bluntly, choosing instead merely to describe it as a strong condition of the political agreement in the people, with the test for its maintenance or its invalidation in the safeguarding of the people's interests. Since such a trust stands or falls on who shall be the judge of the people's interests, radicals also attempted to aver a connection between the concept of trust and that of consent. Richard Price asserted that men with power hate "the doctrine, that it is a TRUST derived from the people, and not a right vested in themselves". Other texts went farther. The anonymous

⁷⁶ Belsham *Examination* p. 96; Rous *Thoughts* p. 12; Charles Pigott, *Strictures upon the new political tenets of the Rt. Hon. Edmund Burke, illustrated by analogy between his different sentiments on the American and French revolutions* (1791) PW vol. II p. 144; Thomas Cooper *Reply* pp. 93-98. See also in Mackintosh *Vindiciae* p. 334; Christopher Wyvil, *A defence of Dr. Price and the reformers of England* (1792) PW vol. III p. 258. To Wyvil's pamphlet were also appended four petitions to parliament requesting parliamentary reforms, with one petition (from Cambridge in 1783) very Lockean in content and style - mentioning natural rights, consent of the people and the state being a contract.

author of *The confederacy of kings against the freedom of the world* approved of the actions of the French National Assembly, as being correct "according to the principles of Mr. LOCKE and some of the first political writers", who asserted that if any branch of a government violates the "trust" from the people, then government is "dissolved" and the body of the nation can choose a substitute. Belsham stated explicitly that the revolution Whigs' concept of government as contract, "much more nearly resembles a delegation, or trust" because "it is designed for the advantage and benefit of one of the parties", and revocable upon reasonable grounds. And Rous returned to the concept repeatedly from different angles - regarding royal authority as a "trust" in the individual monarch created for the "*sole benefit*" of the people; asserting that government is not a "property" of those holding it, only a "trust" from the people; opining that the people have not only a "*perfect right*", but, in certain circumstances, the duty to resist government, as all power exercised by a part is a trust derived from the whole community for their benefit and held only by their consent; and attacking Burke for being like the old defenders of the divine right of kings, that would not allow the people to judge of the breach of the "trust". Gerrald put things in even starker terms when he asserted (without mentioning Locke) that: "The power of all legitimate government is a *lodgement*, not a *gift*; we *trust* much, but we *part* with nothing". Other radical writers, aware of the criticism against the concept of the people judging of the trust's breach as profoundly destabilizing of government, attempted to show that such a political tool would be used only in extreme cases, by referring explicitly to Locke's treatment of the problem. Thus Daniel Stuart noted Locke's discussion, in the *Second treatise*, of the supposed reluctance of peoples to change their form of government. And Towers quoted from the same source (ST sec. 225), as proof that nations dethrone rulers only in circumstances of clear and sustained wrongs. The author of *The political crisis*, evidently not fearing such criticism, simply asserted that, on the basis of

Locke's *Second treatise* (sec. 168), the people are those who shall be the judges of a situation when the "trust" is forfeited.⁷⁷

(iii) **Consent** - the meaning of the term consent, as used by radical writers of the 1790s is often ambiguous. As well as being variously used to describe individual or collective assent, various adjectives that were sometimes added to the term, like "tacit" or "majority" revealed very different interpretations of what such consent (whether individual or collective) actually consisted. The obvious problem was that accepting an idea of individual consent came very close to allowing some kind of universal political right, an idea even the great majority of radicals were not prepared to embrace. Thus most radical authors using the term, seem to have shirked from defining the term too clearly, employing it instead as a general description pertaining to an ill-described "people", while preferring to refrain from spelling out the details of what such consent consists in, or how it should be gauged. Some authors attempted to support their use of the concept, while avoiding treating it concretely, by referring directly to Locke's authority. Such was the case with Belsham, when he asserted that the base of civil power is the will and the consent of the people, while adding that this opinion had been upheld by Blackstone too, when the latter was "animadverting upon the same general position, as advanced by Mr. LOCKE". Similarly, Rous declared he was merely repeating "a doctrine taught by Locke and Sidney, that a *legitimate* Government *can have no other foundation than the consent of the people*". Other writers went some way towards addressing the concrete meaning of the term. Christie, for example, while writing approvingly of the French National Assembly assuming "supreme power", opined that the act was sanctioned by the whole nation, at

⁷⁷ Price *Discourse* p. 14; [Anonymous], *The confederacy of kings against the freedom of the world* (1792) PW vol. III p. 188; Belsham *Examination* p. 96; Rous *Thoughts* pp. 3, 12, 19, 27; [Gerrald] *British convention* p. 90; Stuart *Peace* p. 331; Towers *Thoughts* pp. 114-115; [Anonymous] *The political crisis* pp. 116-119. See also Priestley *Letters* p. 330, treating the concept without using the term trust.

first "by tacit consent, which was all that could at that time be done", later by "innumerable addresses" and last by a "general deputation" to complete the solemn "confederation of the people". Although not completely clarifying the issue, it plainly emerges from this account that "tacit consent" was acceptable to Christie only as a temporary necessity, and that a "general deputation" was needed to complete the expression of consent – a deputation that in the French case, it should be remembered, had been elected by universal (male) suffrage. It was quite unusual for a writer to spell out, like Thomas Cooper did, that he saw the people only as "a multitude of individuals", and their political authority as only their aggregate rights, so that authority or dominion could be exercised only over an individual who had given his (or, as he notes approving of Wollstonecraft's *Rights of woman* - her) "own consent".⁷⁸

(iv) **Natural rights** - closely connected to the concepts discussed above (particularly consent), the notion of men's "natural" rights, reason and equality, was treated by radical writers more straightforwardly. It is evident that many radical authors understood and stressed the importance of a juridical, Lockean supposition of pre-social human attributes determining the relations between individuals and political society, and conveyed by the term "state of nature" – rather than the actual historical stage (as envisaged for example by Rousseau). For Locke, though he held the state of nature to have been (indeed to still be in the case of primitive societies) a historical stage, based his political theory on this state's juridical attributes, on rights and reason inherent in "natural" men.⁷⁹

⁷⁸ Belsham *Examination* p. 90; Rous *Thoughts* pp. 10, 13; Christie *Letters* p. 201; Thomas Cooper *Reply* pp. 98-99.

⁷⁹ Laslett *Two* pp. 98-100. ST sec. 13-14, 19, 49, 101. For the divergence between Locke's juridical state of nature and Rousseau's historical one, and the treatment of the issue in 18th century thought see Ogden "State" pp. 21-22, 33.

Radical writers based their claim for natural rights mainly by identifying them with a natural state of reason. Indeed, often such writers seem to have understood reason as something exactly opposed to actual history: the conflict between history and nature they saw as being about man having or not having "natural", pre-social reason and right. The obvious consequence being that, if man had qualities that existed in him before and irrespective of society, then he was its creator and master; if he lacked such qualities, he became the creature and subject of society. Such a message, claiming that true reason was the complete opposite of ideas fashioned by society, was delivered already in the title of Yorke's 1793 tract *Reason urged against precedent*, which, in its attempt to establish this principle brought in the text a number of excerpts and paraphrases from Locke's *Second treatise*. The same was true of Thelwall's treatment of the subject. He proposed that the term "*Nature*" had two completely different meanings in current political discourse: for himself and those who thought like him it stood for what is true and can endure the "test of reason", while for those who thought like Burke, it was everything having "the hoar of ancient prejudice upon it". He then added that the principles of the 1688 revolution and of Locke were those of "the code of Nature" (later in the text Thelwall brought his opposition between a-social reason and history to its logical conclusion, rejecting the notion that a historical law of nations existed, and hence dismissing completely the writings of Grotius and Pufendorf).

Joseph Towers, as always making his case more brusquely, claimed simply that the "principles of Mr. LOCKE are certainly much more perspicuous, than the account of the rights of men given by Mr. Burke, and they are founded on unquestionable reason". In the same vein, Mary Wollstonecraft drew a sharp contrast between nature, which she associated with truth and reason, and between social artifices, which she viewed as false and distorted. Thus she claimed the progress of civilization in Europe was being stopped by

hereditary property and honors, through which "man has been changed into an artificial monster"; and accused Burke of proposing a system that would put authority in place of "Nature and Reason". A similar point of view, though in a more controlled style, was displayed by the author of *The political crisis*, who answered the anti-radical argument according to which in a time "prior to any social compact in society" there would be no laws, with the Lockean assertion that even in such a state, there existed in men the law precedent to all human institutions, "REASON", which is the law of nature. For this and its other claims, instead of proof, the text contented itself with referring to the authority of, and to verbatim quotations from Locke's *Second treatise*. Rous addressed the issue of natural equality (while denying the notion of an irrevocable contract), by affirming that the truth "seems to be what Mr. Locke has taught. All Men are by nature equal". Nevertheless, Rous refrained from drawing consequences from this natural equality to practical political rights of individuals. Belsham went further when, attempting to answer criticism (directed by Burke and others against France) of the notion that men are naturally equal and entitled to equal rights, he proposed that this notion "we have long been taught by Mr. Locke, and others in this country, to consider as a simple, just and noble principle, lying at the very foundation of all just reasonings on the subject of Government".

Paine, as usual without acknowledging the obvious Lockean derivation, put the anti-historical view in characteristically blunt terms, and claimed that all accounts of creation agreed on "*the unity of man*; by which I mean that man is all of *one degree*, and consequently that all men are born equal and with equal natural rights, in the same manner as if posterity had been continued by *creation* instead of *generation*, the latter being only the mode by which the former is carried forward". Consequently, he argued that to every one, when

born, the world was as new "as it was to the first man that existed, and his natural right in it is of the same kind".⁸⁰

The four concepts discussed above were not usually treated as separate notions, but rather – as is evident in many of the examples given – appeared in connection with one or more of the others. A good example of the concepts being treated together, all four appearing as part of one cohesive ideological whole, is a paragraph from Joseph Towers' *Thoughts*. In it, while criticizing what he terms Burke's "most abstruse" and "most obscure" theory of government, Towers brought forth the purportedly obvious to all, explicitly Lockean, maxims and principles respecting government (previously presented by him in a 1782 pamphlet devoted to defending Locke's ideas from Josiah Tucker's attack) which asserted:

That all legitimate government is derived from the consent of the people; that men are naturally equal, and that no one has a right to injure another in his life, health liberty, or possessions; and that no man in civil society ought to be subject to the arbitrary will of others, but only to known and established laws, made by general consent, for the common benefit. That no taxes are to be levied on the people, without the consent of the majority, given by themselves, or their deputies. That the ruling power ought to govern by declared and received laws, and not by extemporary dictates, and undetermined resolutions. That kings and princes, magistrates and rulers of every class, have no just authority but what is delegated to them by the people; and which, when not

⁸⁰ Yorke *Reason* pp. 67-84; Thelwall *Rights* pp. 445, 405, 450; Towers *Thoughts* pp. 116-117; [Anonymous] *The political crisis* pp. 114-117; Mary Wollstonecraft, "A vindication of the rights of men" in S. Tommaselli (ed.), *Mary Wollstonecraft, A vindication of the rights of men and A vindication of the rights of woman* (Cambridge, 1995) pp. 9, 64, and on pp. 44-45 where she asserted that Locke would have thought little of the Commons' eloquence (praised by Burke), as he believed it was more often employed to dissemble the truth than to "support cool judgment"; Rous *Thoughts* p. 13; Belsham *Examination* p. 63; Paine *Rights* p. 85, and in a footnote on p. 126, he brought forth the notion of "a compact between God and man", as the relation in which man stands "in his individual person towards his Maker – and which, therefore is prior to society, and cannot be changed or altered by human law or authority. This also means that governments cannot interfere in this relation".

employed for their benefit, the people have always a right to resume, in whatever hands it may be placed.⁸¹

Thus, in almost all of the prominent radical writings of the 1790s are found recurring references to Locke and his ideas, their authority invoked in aid of the radical argumentation, whether general or specific. All radical tracts which mentioned Locke, either in passing or with a serious treatment of his ideas, expressed support for his notions. But perhaps most important, in their support for Locke's ideas and the use of his name, there was no real difference between radical writers. Writers from the three groups previously discussed, whether espousing moderate or extreme political proposals, were united in their embrace of Locke and his views. Moreover, as the above examples amply illustrate, radical authors explicitly positioned Locke as the antithesis of the views held by Burke. It will evince no great surprise then, that there is not even one case in which a radical text presents Locke and Burke as holding the same political principles, and in fact all of the radical texts treating Locke and his ideas, which also mention Burke, present the two as holding diametrically opposed political theories. In other words, all of the important texts on the radical side of the revolution debate employed Locke's ideas (and almost all, his name also) as part of their theoretical argumentation, and a clear attempt can be seen in these texts, to present Burke's ideas, as the fundamental antagonists of Lockean political concepts. Any treatment of Burke's relationship with Locke and his ideas, must address this rendition of him by contemporary radical writers as a staunch anti-Lockean.⁸²

⁸¹ Towers *Thoughts* pp. 96-97. The name of Towers' 1782 tract was *A vindication of the political principles of Mr. Locke in answer to the objections of the rev. Dr. Tucker, Dean of Gloucester* [sic].

⁸² Most direct in putting forth the Locke versus Burke dichotomy were writers like Towers, Belsham and Thelwall, but it was extant, whether implicitly or explicitly, in all radical writers who mentioned both thinkers. See, for example, Towers *Thoughts* pp. 96-97; Belsham *Examination* pp. 63-65; Thelwall *Rights* pp. 447-448; Mackintosh *Vindiciae* pp. 364-365; [David Williams], *Lessons to a young prince by an old statesman, on the present disposition in Europe to a general revolution* (1791, 6th edition) PW vol. III p. 77; Rous *Thoughts* pp. 12-13.

In order to complete the perspective on the character and meaning of the Lockean dimension of the revolution debate, it is now necessary to turn to the views expressed by Loyalists. Compared to the treatment of Locke and his ideas by radical authors, among loyalist writers the treatment evinces far less uniformity, with loyalist authors who refer to Locke – far fewer in numbers than radical ones – adopting a range of attitudes, from positive or at least neutral to negative. However this range is not evenly distributed. Perhaps the only loyalist text displaying a thoroughly Lockean language and argumentation, Judge Ashhurst's famous *Charge*, curiously did not explicitly mention Locke at all. The *Charge* is described by modern scholarship as a harsh loyalist reaction to the spread of radical ideas. But a perusal of the text shows that it attempted to defend the British constitution against the danger of Jacobinism from within a Lockean framework. Ashhurst, for example justified legal restraints on individuals only as necessary for civil liberty to subsist, because "if every man was left to the free and uncontrouled exercise of his own will (as in a state of Nature), no man could be secure in his person or property". He continued with the argument that men "in a state of Nature, as there was no security to property" did not appropriate things further than for their momentary necessity, but when they "formed themselves into a state of civil society" the consciousness of each in the security of his property induced the habits of industry as he looked to the future. He further argued that "mankind (on entering into Society) should give up into the hands of the governing power of the State, that species of Liberty which resulted from a perfect equality in all men". In short, Ashhurst assumed a state of nature and a "perfect equality" in it, and described security of property and defense of rights as the reason for the creation and retention of the civil order.⁸³

⁸³ William Henry Ashhurst, *Mr. Justice Ashhurst's charge to the Grand Jury for the county of Middlesex* (1792) PW vol. VII pp. 215-218. Claeys terms the *Charge* as neither polite nor parliamentary, but rather more akin in style to the "brawl" of a sailors' tavern. See Claeys

There were some loyalist writers who explicitly and favorably mentioned Locke, but these were all cases of quite general references to his reputation as an important thinker, without any treatment of his actual ideas. Such were David Rivers' anonymously published *Cursory remarks* (1792) which while ridiculing Paine's claim to be the great harbinger of the rights of man, sardonically remarked that, as for "LOCKE and MONTESQUIEU, they undoubtedly had some faint glimmerings of light on this important subject" - but not much more. Similarly, Alexander Peter in his *Strictures on the character and principles of Thomas Paine* (1792), disparaged Paine's "arrogance bordering on insanity" in claiming there was no British constitution, and retorted to it with a list of "illustrious characters" who had knowledge of such a constitution, among which he numbered Addison, "LOCKE" and Hampden. As is evident, in such cases Locke appeared merely as one among a number of prominent names, with no argument made based directly on his views - and in all cases, the context was of an attack against Paine (thus the main intent seems to have been to establish some distance between Paine and Locke) It is instructive to see that writers who took this approach espoused moderate loyalist views, with none expressing support for Burke and his ideas, and some rather negatively disposed towards them.⁸⁴

"Introduction" PW vol. I p. xxxviii. For Burke's low opinion of Ashhurst's ideas (concerning other matters) see COR vol. VIII p. 344.

⁸⁴ [Rivers] *Cursory* p. 130 - unusually among loyalists, Rivers was a dissenting minister, but he publicly broke with dissenters in 1798 over their disloyalty to the state, publishing *Observations on the political conduct of the Protestant dissenters* [1798?]. Alexander Peter, *Strictures on the character and principles of Thomas Paine* (1792) PW vol. VI pp. 137. Another example was Sir Brooke Boothby, an author whose place in the loyalist camp was at best precarious, who mentioned Locke twice: in his anonymously published *A letter to the Right Honourable Edmund Burke* (1791, 2nd edition) PW vol. II p. 80, wrongly claiming that Locke had limited the duration of his Carolina constitution to a hundred years; and in his *Observations on the Appeal from the new to the old Whigs and on Mr. Paine's Rights of man* (1792) PW vol. VI p. 223. A slightly different case was that of the *Letters to Thomas Payne* (1792) which brought Locke's ideas from the *Essay* to prove Paine was abusing words by not annexing to them the ideas they were intended to convey. See [Graham Jephson? - attribution uncertain], *Letters to Thomas Payne, in answer to his late publication on the rights of man. By a member of the University of Cambridge* (1792) PW vol. V pp. 366.

Next could be found a large group of loyalist authors who, while mentioning Locke favorably in one part of their text, in other parts attacked obviously Lockean ideas. The inevitable effect was of undermining Locke's authority at the same time it was being invoked. These tracts were all convoluted and contradictory (some in a spectacular manner), so that it is often unclear if their damaging reflections on Locke owed more to the author's conceptual confusion than to a deliberate attempt. One such example Robert Nares' *Principles of government deduced from reason* (1792). After presenting the fundamental Lockean premise (without mentioning Locke's name) "*that every man has naturally and essentially a right to govern himself, or to be governed by his own consent*" as perfectly false, Nares' text went on to quote Locke (indirectly, from Blackstone's *Commentaries*) as supporting the rule of a King over the inconveniences arising from his mischief, and to add that Locke's "authority" upon "this subject will, doubtless, be considered with respect". Another example was Sir Lawrence Parsons' *Thoughts on liberty and equality* (1793), which attempted to support the existing British constitution by a curious mix of Lockean and anti-Lockean arguments. Parsons opened the discussion by asserting that: "The chief end of civil society, Mr. Locke, in his Treatise on Government, says, is the preservation of property; men, in a state of nature, having different dispositions and faculties, some will acquire a greater property than others". Later in the text Locke (together with Montesquieu) was appealed to as an authority proving that limited monarchy was the best constitution, and Paine reviled for not understanding this. But then Parsons proceeded to reject some of Locke's most important political principles, among other things denying a natural right of majorities over minorities and, the people's right to change the constitution.⁸⁵

⁸⁵ Robert Nares, *Principles of government deduced from reason, supported by English experience, and opposed to French errors* (1792) pp. 12, 89-91; Lawrence Parsons, *Thoughts on liberty and equality* (1793) pp. 6, 15-16, 24-25, 58. Other examples are William Hamilton, *Letters on the principles of*

Other cases of loyalist writers' undermining of Locke and his ideas appear to be intentional, in a sometimes circuitous, but nevertheless effective manner. Such writers brought up Locke's name in the context of some political idea they were considering and, while showing respect for Locke's reputation, simultaneously introduced arguments that directly refuted the latter's position on that idea. Such was the case with William Cusack Smith's anonymously published *Rights of citizens* (1791), which used the ingenious device of employing arguments from thinkers high in the radical pantheon, like Rousseau and Locke, in order to refute them by each other's ideas. Thus, attempting to undermine the Lockean notion that there is a natural right to redress wrongs, he quoted in an apparently praising tone, "the opinion of no less wise a man than Locke" (from ST sec. 107), to show that there can be no injury where there is no property. Cusack Smith then asserted that since in the state of nature there was no property, neither was there an "injury", and hence there could not exist a natural right of redress. Similarly, William Thomson's 1792, *A letter to Dr. Parr*, while rejecting the notion of an a-priori constitution, brought as an example the constitution written for the Carolina Colony by the "celebrated Mr. Locke", and then explained that only when this a-priori constitution was laid aside and another one adopted, the colony started to thrive. The same is true for the anonymous text (attributed to Sir

the French democracy, and their application and influence on the constitution and happiness of Britain and Ireland (1792-1793 – originally published in four parts) PW vol. VII, pp. 139-142; [John St. John], *A letter from a magistrate to Mr. William Rose of Whitehall, on Paine's Rights of men* [sic] (1791) PW vol. V pp. 183, 204 201, 189-190, 192-193; [Anonymous], *Dialogues between a reformer and an anti-revolutionist* (1794) pp. 2-3, 6-9 (this text while purporting to defend Locke was quite Hobbesian – see particularly pp. 61-62); [Anonymous] *Fourth letter*, which on pp. 295-297 mocked Paine's method of "syllogism" [sic], sardonically asking how far might "Aristotle or Locke" admire its form – setting Locke as a great logical thinker, but later in the text, natural rights are derided; and the anonymous *Principles of order and happiness under the British constitution. In a dialogue between our parish clerk and the squire* (1792), pp. 13-14, where the "Squire" character, weaning the "Clerk" from revolutionary ideas, explained that Paine's putting the rights of man above the law "directly contradicts Mr. Locke (whom we are not yet prepared to exchange for him)". But the text then went on to deny that any man ever lived in a true state of nature.

George Dallas), *Thoughts upon our present situation* (1793), which labeled as unnecessary Paine's exposition of "axioms" applicable only in a state of nature, such as men being born free and equal – to which man, being a "rational animal" is anyway not fitted – since they already had "been much better explained to us by Mr. Locke, and other able writers". The apparent praise of Locke as an "able writer", in effect placed him among those who wrote about inapplicable ideas, and even worse, it implied he was the intellectual precursor of the dangerous revolutionary Paine. In short, such writers, designated Locke as "wise", "celebrated" and "able", while openly rejecting his fundamental political theories.⁸⁶

Next there were those loyalist writers who rejected Locke and his ideas straightforwardly and explicitly, but without offering any detailed refutation of the whole or of particular ideas. The harshest terminology towards both Locke and his ideas, was usually that employed by American loyalists who had been forced by the rebellion to flee the colonies. Such was the case with Isaac Hunt's *Rights of Englishmen* (1791), which, while denying Paine's idea of contract, asserted the failure of "[t]he whole tribe of republican writers, from the great Apostle Locke down to his disciples Messrs. Price and Priestley", in their attempt to establish the said idea as the "origin of government". Equally damning was Jonathan Boucher in the 1797 version of his text, *On civil liberty*,

⁸⁶ [William Cusack Smith], *Rights of citizens, being an examination of Mr. Paine's principles, touching government. By a Barrister* (1791) PW vol. V pp. 272-273, 276; William Thomson, "A letter to Dr. Parr", appendix to Parr's *Sequel* p. 173; [Sir George Dallas], *Thoughts upon our present situation, with remarks upon the policy of a war with France* (1793) pp. 14-15. A somewhat different case was that of the anonymous *The two systems of the social compact, and the natural rights of man examined and refuted* (1793). This text after rejecting the notion of natural rights, which it identified with Price and Paine, as de-legitimizing all governments not based on universal suffrage, proceeded to criticizing the notion of social compact, which it identified with Locke – and Burke. In attempting to distance Locke from the natural rights views of Price and Paine, the text merged Locke's and Burke's views on contract, and in the process displayed a comical failure to understand the substance of Locke's political ideas. See [Anonymous] *Two systems* (1793) pp. 26-27, 6-7, 8-10, 20-21. The DNB attributed the pamphlet to Thomas Green. But considering the lackluster manner and content of argumentation in this case, as compared to Green's other writings, the attribution seems to me extremely unlikely. See Sir Leslie Stephen, *The dictionary of national biography* (1885-1903) vol. XXIII pp. 497-498.

passive obedience and non resistance, where, after dissenting from various Lockean ideas, he remarked that Locke's principles were merely those of the English civil war, "new-dressed", and that "there is hardly a principle or project of any moment in Mr. Locke's Treatise, of which the rudiments may not be traced in some of the many political pieces which were then [at the time of the civil war] produced". However, the most prominent among writers who caustically berated Locke in the 1790s was not a refugee from America, but rather the prolific loyalist author and editor John Gifford. In his *A letter to the Hon. Thomas Erskine* (1797), after declaring as Erskine's "grand principle" the notion that that all lawful government is an emanation from the whole people, Gifford (giving as his source the eight chapter of ST, covering sections 95-122) claimed this was

a principle which has been before advanced by that arch-propagator of wild conceits, that wholesale fabricator of fantastical systems of polity, (accuse me not of political blasphemy!) *John Locke*, who had scarcely given birth to this shapeless abortion, when he crushed it at a stroke, by proving the *impossibility* of its existence. He was compelled to acknowledge that '*the coming into society upon such terms would be – only to go out again*'.

A short time later, Gifford published *A second letter to the Hon. Thomas Erskine* (1797), to which he added a postscript citing, and attempting to refute, the criticism directed at his first *Letter* by the three prominent radical literary reviews. He addressed the reviewers' criticism of his attack on Locke by stating: "I was aware that, in attacking the Great Father of Democracy, Mr. Locke, I had administered a pill *too bitter* to be swallowed by those Critics, who regarded that philosopher as their grand idol, and who, in warmth of their zeal, extended their veneration to his modern disciples, the Republicans of France".⁸⁷

⁸⁷ Isaac Hunt, *Rights of Englishmen, an antidote to the poison now vending by the transatlantic republican Thomas Paine* (1791) pp. 15-16; Boucher, "Civil" pp. 531-532 (in his attempt to show

Other loyalist writers rejecting Locke's ideas adopted a more respectful manner and directed their criticism at particular political ideas of Locke, but his wider culpability was very much obvious. Such was the case with Thomas Green's *An examination of the leading principles of the new system of morals* (1799), where the writer, in his attempt to refute sense-based utility as a possible basis for a moral and political order, identified Locke as the central influence that facilitated the wider public acceptance of the erroneous principles founded on such a base:

The system of philosophy advanced by Mr. Locke, a System the most level to common apprehension, the most applicable to common life, and eventually the most popular and operative that was ever offered to the world, - by exploding all occult principles either of belief or action, and reducing the latter, simply to a desire of personal pleasure and aversion to personal pain, as it resolved the former, into a perception in each individual of the agreement or disagreement of his ideas, had fully prepared the public mind for the reception of this doctrine.

Another case was Gilbert Francklyn's anonymously published *A candid inquiry into the nature of government, and the right of representation* (1792), a respectful but firmly anti-Lockean text. Francklyn, quoting at length from the ST, pointed out various places where he believed Locke's argumentation to be defective. He noted that when asked to be shown the point in history where

how low had Locke's esteem sunk, Boucher quoted from Gifford's *Erskine* attack); Gifford *Erskine* p. 56; Gifford *Second Letter* pp. 79-80. The attacks on Gifford were in *The Monthly Review* of July 1797, *The Critical Review* of July 1797 and *The Analytical Review* of May 1797. Gifford did not attempt a detailed analysis and rebuttal of Locke's political ideas, maintaining that "the principles of Locke will be *analysed* [sic] by a more able pen" – referring to was that of his good friend and ideological companion, John Bowles, then in the process of composing a comprehensive attack on Locke. For Gifford's reply see his *Second letter* pp. 71-80. In addition to his pamphlets, Gifford also hammered on about Locke as the source of revolutionary ideas in the *Anti-Jacobin* of which he was editor, see Andrews *British* pp. 147, 109. It is worth considering that loyalist criticism of Locke could be detected not only in pamphlets and periodicals, but also among the many "anti-Jacobin" novels published in the 1790s. In Sophia King's *Waldorf; or, the dangers of philosophy* (1798), the eponymous hero is led astray by the speculative ideas and devious schemes of "the new philosopher Herdi Lok". Lok's instructions are that man should decide his course solely by his own "never erroneous" reason, while keeping the heart in subordination. See Grenby *Anti-Jacobin* pp. 79-80.

"equality of man" existed, "although Mr. Locke states this objection in its full force, in order to confute it, he rather evades than answers it, - he in a manner confesses he cannot give such an instance". He also remarked that Locke could not supply actual examples by which to support his political principles, and in the one attempt to do so, the example (Francklyn refers his readers to a quote from ST sec. 105, discussing Venice) directly confuted them. A further target for Francklyn's criticism was Locke's negation of children's subordination to their parents.

An additional example in this group is the anonymous *An humble address to the most high, most mighty and most puissant the sovereign people* (1793), an anti-revolutionary text of sardonic style, but serious arguments. The author testified to "great respect for the opinions of Locke, but I apprehend he has used expressions too loose and general in his Essay on Government, which are liable therefore, to be greatly misunderstood, or misinterpreted". To illustrate the "loose" expressions, the author raised a number of rhetorical questions as to the meaning of several important assertions by Locke. Among these questions: what is the criterion of positive laws' goodness or obligation, and of the extent of their agreement with the law of nature? Who shall be the common interpreter of the law of nature? The author believed that such questions necessarily led to the self-defeating final problem, to the effect that, "[n]o such person being discoverable, has every man a right to erect a tribunal in his own breast, and to determine whether the powers that rule act according to the law of nature and ought to be obeyed ?".⁸⁸

⁸⁸ Green Examination pp. 350-351; [Gilbert Francklyn], *A candid inquiry into the nature of government, and the right of representation* (1792) pp. 21, 22-25; [Anonymous], *An humble address to the most high, most mighty and most puissant, the sovereign people* ([Dublin], 1793) pp. 20-21. Another example is Thomas Lionel Freeman's 1793 *An address to the disaffected subjects of George the third*, which, while considering the concept of liberty, brought two definitions, one from Justinian's *Corpus*, the second from Locke's *Essay* (book II, chapter 21, paragraph 8), and then declared neither to be correct, for, according to him, both assumed man in a situation that never existed: "Independence". See *Freeman Address* pp. 360-361.

Finally there were a small number of loyalist authors, who produced some of the most intellectually substantive loyalist texts, in which they combined a factual and respectful language together with a systematic condemnation of Locke and his ideas. Tatham's *Letters to the Right Honourable Edmund Burke on politics* is an interesting and rather well written text, which was one of those most ferociously attacked by radical authors. Formally addressed to Burke, Tatham's pamphlet was a closely argued attempt to support Burke's *Reflections* against its opponents, the "philosophical politicians", those who "assume to be great philosophers". Educated "in the school of a Locke and a Rousseau, and enamoured of *the perfect commonwealth* of Mr. Hume" the "philosophical politicians" cherish the sentiments of "the subversion of all kinds of governments, and an incessant desire of change in every polity, till their own ideal city be established". Attempting to present an avowedly Aristotelian alternative to the "political speculations of our modern sect of philosophical dreamers", Tatham did not focus his attack only on Locke and his ideas. But singling out from the "modern sect" the Lockians Price and Priestley (he also mentioned Lofft's *Remarks*), he made clear that among the sources of their notions among earlier thinkers, Locke's name and his ideas (especially that of contract) figured most prominently.⁸⁹

If Tatham's censure of Locke's ideas was still relatively contained, approaching them as the source for derivative ills, Samuel Cooper's *The first principles of civil and ecclesiastical government*, (1791) directed its criticism far more explicitly. Seizing on Priestley's claim to present fundamental principles of government according to "Lord Somers, Mr. Locke, and Bishop Hoadley", Cooper savaged him as a "bigot to the *infallibility* of Locke", while being a

⁸⁹ Thatham *Letters* pp. 22, 64, 88-89, 93-94, 97-98, 102-103. I. Kramnick identifies Tatham as the most vocal denouncer of Locke (together with Josiah Tucker), but he overlooks the importance and resonance – at least equal if not greater than Tatham's – of the attacks on Locke by Samuel Cooper, Gifford and Bowles. Indeed none of the latter three is even mentioned by Kramnick. See Kramnick "Republican" pp. 652-653.

skeptic to the authority of Christ. Ignoring Somers and Hoadley, Cooper concentrated solely on Priestley's debt to Locke's political ideas - presenting his own views of those ideas, and their relation to Burke's, thus:

I can so easily conceive, that Mr. Burke may differ from *Mr. Locke's* principles in his treatise on government, without *forgetting* them, that I am utterly unable to conceive, how they can possibly be admitted by any one, who has been previously habituated to much thought and deep reflection, before he happens to read them, wither in consequence of his own choice, or in obedience to the command of his tutor. That Mr. Locke, must always stand deservedly very high, in the temple of fame, it would be folly or injustice to deny. But, that he was *not* ALWAYS *clear* in his *first principles*, nor right in his *deductions* from them, even in ANY of his works, and *more particularly* in those, upon CIVIL GOVERNMENT, may be asserted with truth, because it is capable of demonstration.

Burke's political principles were thus explicitly opposed to Locke's, and the latter's found wanting, with Cooper opinion of Locke's ideas put in an even starker light by his later observation that from the first moment he tasted Locke's "principles upon government" they never appeared to him to have the flavor of the "well of truth".⁹⁰

While Tatham and Samuel Cooper concentrated their efforts more on defending their own (and to a great extent what they presented as Burke's) views of the commonwealth, than attacking Locke's theory, it was John Bowles who produced the most systematic and sustained refutation of that theory. Among his many writings against the revolution during the 1790s, Bowles devoted significant efforts to describing the fundamental theoretical failings of the revolutionary approach to political constitutions, gradually identifying Locke's ideas as the primary source for these. His first effort in this direction was *Thoughts on the origin and formation of political constitutions*

⁹⁰ Samuel Cooper *First* pp. 27-28, 32-34, 37. For reactions in the periodical press to Cooper's pamphlet and to his belief that he had "demolished the principles of Mr. Locke and his followers", see Andrews *British* p. 29.

(1795), which addressed the latest French attempt at constitution, presented a quite Burkean analysis of a constitution as “originally founded upon power, of which it is but a modification, and it cannot be derived from any other source. All Government is power, variously combined”. In the course of time it acquires “the accumulative force derived from habit, education, attachment, confidence, respect for antiquity, religious principle, and even from prejudice itself”, and these “moral influences”, themselves constituting its principal strength, themselves become stronger every day. Three years later, Bowles published *The retrospect* (1798), a collection of his tracts, in which he added to the (somewhat modified) text of the *Thoughts* a lengthy section described as his “Reflections on Mr. Locke’s System”. Bowles claimed that “The source of those erroneous and ruinous systems, which, in modern times, have assumed the dignified name of Philosophy, is a mistaken idea respecting the origin of Government, and, indeed, of society”, the idea being that “a state of society was preceded by, what they call, a state of nature”. Such “crude and unnatural speculations” Bowles continued, had long floated in the minds of men, and disturbed the peace

when they acquired an unfortunate respectability and influence, from being seriously adopted and strenuously supported by Mr. Locke. That writer moulded [sic] them into a system, which has since been the creed of a party, who, under the denomination of Whigs, consider themselves as the only friends to civil liberty.

Bowles proceeded to attempt and show by lengthy quotes from the “Treatise on Civil Government” how “Mr. Locke is certainly the best possible evidence” to such system’s impracticability. He sardonically pointed out a list of men’s incredible capabilities in the state of nature, without which they could never create a contract, that are supplied by Locke “by the sole effort of imagination”: to surmount the lack “of a common language” and thoroughly understanding each other “framing such a wonderful connection, which, according to him, has no foundation in nature”; to “inspire them at once with

confidence and harmony" so that they overcome "that mutual fear and animosity, which are natural to mankind"; to lead such "untutored brutes" with "a prophetic impulse to understand that though they can create the commonwealth by consent, to manage it majority rule will be needed. After dissecting Locke's ideas, Bowles charted the historical course by which after the "leveling doctrine of a natural equality of rights" had afforded a pretext for many discontents and insurrections "[a]t last arose a sect of Philosophers, with Mr. Locke at their head, who inculcated these principles as a system" teaching that "the whole frame of society originated in the individual exercise of natural and unalienable rights", that the members of society are "at all times, intitled [sic] to dissolve the bonds which they had voluntarily formed" and bring "before their High Tribunal the persons, whom they had invested with authority". These ideas had generated in England those termed by Bowles Locke's "coadjutors", the "Prices and Priestleys of modern times"; and in France, the revolution. Thus,

If Mr. Locke were to rise from his tomb, and behold the fruits which have been produced by his tree of liberty, which, after languishing for a century in this Country, has, at once, attained a luxuriant maturity, by being transplanted into Gallic soil, he would, himself, lay the axe to the root of that tree. – He would implore forgiveness of God and Man, for the mischief he had unintentionally done – for the very large share he had had in causing the inexpressible miseries which, for these nine years, have afflicted the human race.⁹¹

To complete the picture of loyalist writers' attitudes to Locke and his ideas, it is convenient to examine their treatments of the four principal Lockean terms,

⁹¹ John Bowles, *Thoughts on the origin and formation of political constitutions. Suggested by the recent attempts to frame another new constitution for France* (1795) pp. 23-24; John Bowles, *The retrospect ; or a collection of tracts, published at various periods of the war. Including some reflections on the influence of Mr. Locke's theories on government, in producing that combination of anarchy and oppression, which has assumed the name of Jacobinism* (1798) pp. 290-297, 300-301, 312-314, 318-320. Bowles is described by Sack as "arguably second only to Burke himself in his impact on the formation of right-wing ideological opinion in the 1790s". See Sack *Jacobite* p. 244.

that have been already been identified and considered in the discussion of the radical writers of this period.

(i) **Contract** - Loyalist writers who addressed the term contract, usually displayed an understanding of the radical's attempt, rooted in Locke's thought, to establish the existence of two separate contracts – one social, another political (with the latter often conditional or no contract at all). There were loyalist writers who simply denied the term bore any relation to truth. However, most loyalist writers addressing the term chose to assign it a different meaning. They treated it as denoting the framework of obligations necessary for political society to exist, but they rejected not only the possibility of a contract having been (or ever being) an actual event, and denied the possibility of dissolving it. According to this interpretation of contract, there was no possible distinction between the contract's social and political elements, therefore making it impossible to dissolve one part without irretrievably destroying the whole. Furthermore, such a contract was declared not an agreement between independent individuals, but an obligation men incurred irrespective of their consent (famously defined by Josiah Tucker in the term, borrowed from civil law, "quasi-contract").⁹²

Tatham is an example of those who denied the concept of contract completely, asserting that the existence of an actual compact was "a mere fiction of Mr. Locke and others, to give a plausible foundation to the science of politics, without any foundation in itself, and has been productive of a specious train of political falsehoods". He added that that even if the existence of such a compact was allowed, it would be so ancient that innumerable changes wrought on it along times and states meant its original form could not anymore be regarded as an authority in the polity. Hunt, after denying either "Locke" or his disciples to have established "'personal individual compact' as

⁹² Tucker *Treatise* pp. 141-146. See also OED vol. XII pp. 1002-1003. The term derived from the roman "ex quasi contractu", and was connected to the wider concept of "negotiorum gestio".

the origin of government", offered his own understanding of the contract as "founded in nature, coeval with society, and recognized by tacit consent". Gould on his part, while defending Burke from his detractors, scoffed at attempts by a radical like Towers, who had "taken great pains to prove the existence of an original contract between King and people" – since Burke had never denied this, and in fact expressly mentioned its existence. What Gould denied was the inference made by radicals that parliament dethroning a particular King for "a breach of the compact", meant it had a right to change the constitution. And Green offered a rationale for the reticence towards dissolving the contract, by asserting that in the past the English when finding something wanting in the polity, amended it, but "prudently declined dissolving Government, least the social particles which are compacted together and regulated by it might fly off" and would demand greater exertions to reunite them than could be foreseen.⁹³

(ii) **Trust** – Attempting to assign to this term too a meaning that was different from that espoused by radicals, those loyalist writers who addressed trust were on the whole more unanimous in their attitudes than when treating contract. The efforts of loyalists were directed at retaining the idea that government is accountable, while at the same time rejecting views according to which the judge of such accountability is the population at large. This

⁹³ Tatham *Letters* pp. 48-49; Hunt *Rights* pp. 15-16 (where Hunt remarked that the establishment of a new government in America showed there was not an entry of each individual into a contract); Gould *Vindication* p. 89; Green *Slight observations* p. 216. See also [Anonymous], *Rights upon rights with observations upon observations* (1791) PW vol. V p. 106, about the "compact" of government supposing a "combination of the whole strength of society in opposition to the freedom of the individual", for the purpose of general defense. For a different loyalist view, denying any sort of contract, see [Anonymous] *Cursory remarks* p. 119, where the argument is made that unfortunately for both those who maintain an original contract between magistrate and people, and "those who wish now-a-days to see governments begin again from the chaos of anarchy", the confusion and unsettled circumstances at times of revolutions or of new settlements of constitutions mean that the opinions of the citizens are even less attended to than in the common course of administration. On conservative attitudes to the term contract, see Dickinson *Liberty* pp. 298-299.

distinction was made by asserting that while a particular person acting as trustee (like the King), might in some circumstances be replaced, the terms of trusteeship (the constitution) must remain fixed. In other words, loyalist writers defined as the subject of trusteeship not the population but the constitution. Accordingly, Cusack Smith described the relation between the people and the King as being that of "a principal trustee of their liberties", and stressed he is "not their servant". In other words, the subject of trusteeship is the constitutional liberties, not the political will of the people. This view was put forward more directly by the anonymous author of *A letter to Mr. Pain*, who wrote that the British King, Lords and Commons had been declared "the *perpetual* and *hereditary* Guardians", the trustees, of the British constitution, and that to "them alone are confided our civil and religious liberties; they hold them in trust for us and our heirs for ever". Thus the British government was described as the trustee for the constitution – not for the people. The same point was made, by implication, in Gould's dismissal of Catharine Macaulay's claim that Burke made the house of representatives redundant when he opined that the King and the Lords were "several and joint trustees" to the whole (and not only some parts) of the kingdom. Gould's reply was that Burke simply meant that King and Lords were securities to the people, not their representatives. Bowles set things even more clearly, when he attacked the contention of a "set of visionary speculatists", adopted and supported "by Mr. Locke", that "the powers of Government are merely a trust, created by the People, which they, at all times, are intitled to recal [sic], and to vest, at their discretion, in other hands". Instead, Bowles argued, a constitution is "the spontaneous production of time and circumstance. It is an effect rather than a cause. It is produced *a posteriori*-never *a-priori*. It is governed by a thousand influences, over which man has no control". But it was Tatham who rejected the concept of a trust from the people in the starkest terms. Attacking thinkers who held that civil authority is a trust from the

people, legal government is the choice of the people, and magistrates are removable at the people's pleasure, he argued that "enlightened" principles such as those could not fail to bring polity and government to "a blaze".⁹⁴

(iii) **Consent** – Loyalists adopted towards this term a range of attitudes which, apparently different, were all directed at defusing the individualistic political implications of the term. Some writers rejected the term altogether; those who accepted it attempted to neutralize its individualistic implications by defining it as a very general kind of political acquiescence, thus implying that to bring about a change in the frame of government, something close to unanimity was needed. One prominent example of a loyalist author outright denying consent was Nares, who opined that since wisdom and goodness have a right to govern, it is then perfectly false *"that every man has naturally and essentially a right to govern himself, or to be governed by his own consent"*. Nares also denied that large bodies of men have such an essential right of "governing themselves", since what individuals lack, the aggregate of individuals cannot have. Gifford too, forcefully attacked those like Erskine who told "the people, in direct terms, that they have an unquestionable right to destroy the Government whenever they please, because you say it exists only by their consent". For Gifford, such assertions were doubly improper, because fomenting unrest at a particularly problematic time for Britain, and because these "ideas of the origin of Government are extremely erroneous". Other loyalist writers conceded consent but treated it as a general and collective political assent, instead of an individual capacity. Sewell described the English constitution as "established by general Consent of the whole English Nation". Addressing the legitimacy of the hereditary succession in the Protestant line asserted in 1688, Hawtrey proposed that "the nation

⁹⁴ [Cusack Smith] *Rights* p. 285; [Anonymous], *A letter to Mr. Pain [sic], on his late publication* (1792) PW vol. VI p. 159; Gould *Vindication* p. 99; Bowles *Retrospect* pp. 288-289, 291-292. Thatham *Letters* pp. 45-47, 61-62.

acquiesced in that establishment, and thereby made it its own act as much as if the universal body of the people had personally consented to and approved of it". The anonymous author of *Considerations* explained that in England the "general consent" of the "great body of the people" to their institutions greatly exceeded that of other peoples. The anonymous author of *A rod in the brine* asserted that everywhere "Governments have been established by universal consent".⁹⁵

(iv) **Natural rights** – this was the term most widely and harshly attacked by loyalist writers, probably because farthest removed from the accepted rhetorical formulas of the English political tradition. Some writers simply denied the actual existence of a state of nature. Hawtrey, saw the philosophers' "state of nature, which they dwell so much upon, and from whence they would derive the rights of man", as inconsistent with the account of the origin of the human race in the Bible. Freeman too rejected as contrary to scripture the concept of "Rights of Man, as they are said to exist in a State of Nature", but added that even if such state did exist, it would not have been one of freedom and equality but rather a rude and violent condition, in which men would soon turn to reliance on the strong and the wise. Other writers concentrated on denying any beneficial dimension assigned to the state of nature. Such was the case with Tatham, who rejected the notion of pre-social "*natural rights*" to life, liberty or property, asserting that the natural rights of a man are properly civil and social rights dependent on the support of the government or polity. Similarly, Bowles wrote that a state of society "may with propriety be called the natural state of Man...". He

⁹⁵ Nares *Principles* pp. 12-13; Gifford *Erskine* pp. 165-166; Sewell *Rejoinder* p. 167; Hawtrey *Various opinions* p. 70; [Anonymous] *Considerations* p. 94; [Anonymous] *A rod* p. 22. In some cases when discussing consent, the language employed comes close to the Lockean idea of tacit consent, but the notion of such consent being in the individual is never conceded. See Thomas Hearn, *A short view of the rise and progress of freedom in modern Europe, as connected with the causes which led to the French revolution* (1793) PW vol. VI p. 354; [Anonymous] *Cursory remarks* p. 121; Hunt *Rights* pp. 15-16; and Tatham *Letters* pp. 70-72.

added that in what is “erroneously called a state of Nature” inequality is destructive to all peace and order, favoring the strong and vicious, while the inequalities of society are in truth calculated for the benefit of all. Vincent attacked the political philosophy of the state of nature, writing that “[s]ome philosophers, perhaps, may be rash enough to assert that society ought to be dissolved. But to this we cannot assent, because a state of nature, for one evil it removes, induces a thousand more noxious and more destructive; it does not better the conditions of the poor, but destroys all the other classes in the community; it does not relieve the poor from oppression, but deprives them of protection and support”.

More specifically, the idea of natural equality (whether connected to the state of nature or not), as dangerous and spurious in character, was a theme taken up by virtually all loyalist writers, even relatively moderate ones. Such was the case with Thomson, who denied outright the idea that all men are “equal by nature”. For Dallas notions such as men being born free and equal “explained to us by Mr. Locke, and other able writers” are applicable only to a state of nature - to which man is not fitted, since created a “rational animal” he is fitted for society. Dallas did not claim here for man a pre-social natural reason but rather proposes that reason and society are coeval, “a state of reason, which begets society”, in which men are not equal, since their societies are so different. And the anonymous author of *Rights upon rights* added that men are not born free equal or independent: they are dependent on their parents during infancy; in their modification of mind and body they are more unequal than any of the animals; and only with mutual help among men can they overpower the power of those who would subdue their independence in a “state of nature”. The anonymous author of *A rod*, illustrating what an actual state of nature was, sarcastically remarked towards Paine that it is the Hottentots “as they have no other honors among them, are in full possession

liberty, and in their manners nearly approaching to the first ages of the world, he must, if consistent with himself, esteem most happy”.

Other writers yet, approached the issue from another angle. Without treating the state of nature at all, they focused instead on the problem of natural rights being indefinite. For Green, natural rights of man (just as the divine rights of governors) were useless jargon. The reason he gave was that since rights are only “a claim under law admitted by both parties”, if the particular law of a society is set aside, and an attempt is made to derive rights from some superior law – of nature, of god, of religion – then, unless this law is “expressed in some universally acknowledged code” (which had not yet been discovered), only endless errors and contradictions follow. Claims fluctuate and vary with opinions, clash with each other, and “destroy themselves, and confound all order and society, and peace and comfort”. While someone will consider every law whatsoever as an infringement of his natural rights, another will assert a privilege of persecuting those who differ from his views. Jones too stressed the problem with claiming rights when different groups of people disagreed about them: since there was no law above rights to decide between claims, the question had to be settled by a civil war. On his part, Gifford warned (particularly at a time, when “the right of resistance and insurrection has been openly preached by the modern apostles of liberty”) from the ever increasing “stock of *imaginary* rights”. It was Samuel Cooper who displayed one of the most sustained and systematic rejections of all ideas of natural rights and natural reason, explicitly connecting them to Locke. Cooper expressed surprise at finding Priestley “seriously defending Locke’s notions” that all men are born free and equal; was suspicious of Locke’s use of the term reason as a kind of weapon by which a man can at any time “subdue the instincts, desires, inclinations, and passions of our nature”, since when there is no “*moral science*” or law to enable one to direct his reason, this becomes merely the choice between passions and instincts; and asserted that

“the mistake, which led Mr. Locke in to this maze of error”, was his belief in natural rights. Cooper also pointed to the anarchic trend inherent in all notions of so-called natural rights, because if such “RIGHTS were NATURAL;- then GOVERNMENT would be UNNATURAL”. After concluding that politics and reforms in government should not deal with rights that one may wish to have, rights that were by definition “INDEFEASIBLE”, Cooper proposed that political discussions should only address the rights one is entitled to by the constitution under which he lived, together with such further particular rights that could be acquired, and be compatible with the welfare of one’s fellow subjects.⁹⁶

The best example of a closely argued and comprehensive rejection of all four concepts, explicitly connecting them to Locke, is in Bowles’ *Retrospect*. He rejected, each in its turn, the ideas that “the powers of Government are merely a trust, created by the People”, that “Government derives its origin from individual consent, and that it is always subordinate to that will”, and that there exists “a natural equality of rights”. Moreover, he repeatedly assaulted the idea of the contract as doubly fallacious - in historical terms because Locke’s state of nature was a “mere phantom of the brain” in which men never were born or could subsist even for one day; and in practical terms because government “is originally founded upon Power, of which it is but a modification, and cannot be derived from any other force”.⁹⁷

⁹⁶ Hawtrey *Various opinions* p. 89; Freeman *Address* pp. 357-358; Thatham *Letters* p. 34-38; [John Bowles], *Dialogues on the rights of Britons. Between a farmer, a sailor, and a manufacturer* (1792) PW vol. VII p. 259; Thomson “A letter...” p. 175; William Vincent, *A discourse addressed to the people of Great Britain, May 13th, 1792* (1792) pp. 7-8; [Dallas] *Thoughts* pp. 14-17; [Anonymous] *Rights upon* pp. 105-106. See also John Somers Cocks, *A short treatise upon the dreadful tendency of levelling principles* (1793) PW vol. VII p. 348; [Anonymous] *Remarks on Mr. Paine’s pamphlet* pp. 30-33; [Anonymous], *Remarks upon the principles and views of the London corresponding society* (1795) PW vol. VIII p. 214; [Anonymous] *Rod* p. 7; [Thomas Green], *Political speculations, occasioned by the progress of a democratic party in England* (1791) PW vol. VII p. 32; [Jones] *Penny-worth* p. 283; Gifford *Erskine* pp. 167-168; Cooper *First* pp. 34, 51-53, 69-74, 156, 159-160.

⁹⁷ Bowles *Retrospect* pp. 291-292, 317, 300-301, 288-289, 310.

It transpires then, that among loyalist writers of the 1790s there was to be found a range of attitudes to Locke, going from rating him among the greatest of thinkers to execrating him as subversive and dangerous. But, this range was not evenly spread. Those expressing positive attitudes did so only curtly and in the most general and rhetorical terms, avoiding any substantive treatment of Locke's ideas and never even mentioning, let alone quoting from, the *Two treatises* (while the *Essay* was mentioned and even quoted a few times); this attitude may have reflected a realization of the problematic if not outright destructive import that many of Locke's political ideas could have on the established constitution. Those who expressed apparently ambivalent attitudes to Locke, were quite flimsy in their praise, while being specific and forceful in their censure of many among Locke's fundamental political principles. Those articulating adverse attitudes to Locke and his ideas did so directly, and many times extensively and in stark language. Thus even authors who expressed some support for Locke's ideas or reputation, were rather guarded about it. In those cases where he was commended this was done either rather ambiguously or only very generally, and not one significant loyalist author can be found that explicitly presented Locke and his ideas as the foundation of the British political system. On the other hand, those loyalist authors who expressed negative comments about Locke, did so forcefully, and most also address his ideas, sometimes in an extended fashion. However, it is relatively unusual to find within loyalist writings, explicit connections of Locke's ideas to the principles French revolution, such as Bowles' assertion that the "system, which, in a few years, has ravaged one half of Europe, is lineally descended from the principles taught by Mr. Locke". Indeed, it is somewhat surprising to find that, although the great majority of loyalists who treated Locke were not favorably disposed towards him, so many of them expressed their criticism in veiled or implied form. This approach becomes even more marked, when it is considered that, as it has

been shown above, so many radical texts explicitly embraced Locke and his ideas as their own. The most probable explanation for this attitude is the great reputation that Locke still enjoyed. Certainly all loyalist texts openly criticizing Locke also acknowledged his great repute, and often expressed expectations that their criticism would earn them accusations of what Gifford described as “political blasphemy”. It is likely that this was the reason many loyalist authors who attacked clearly Lockean ideas abstained from mentioning Locke’s name at all.⁹⁸

Accordingly, this review of loyalist writers’ attitudes to Locke, tenders support to the views of scholars like I. Kramnick, who had correctly claimed that Tory and clerical writers “often singled out Locke as the sinister influence behind radical agitation”, but offered only weak demonstration of this point. While it refutes the claims of scholars like E.L. de Montluzin that most 1790s conservative writers agreed “with many of John Locke’s ideas”, although they rejected his view that government originated with a contract, “since the idea had been pre-empted by the Radicals” and believed instead in a “prescriptive Constitution”. The clear majority of loyalist writers treating Locke criticized (often quite harshly) all of his main ideas, including those of natural rights, consent and trust. As for the idea of an original contract as the basis for government, this was actually supported by most loyalists, many of whom recognized in Locke’s theory precisely an attempt to avoid the obligation of such a political contract. Furthermore, Montluzin’s claim that a prescriptive constitution was the prevalent view among loyalists, does not bear scrutiny when the wide range of political theories their writings offered is considered.⁹⁹

⁹⁸ Bowles *Retrospect* p. 318; *Reflections* pp. 86-87. About radical claims upholding the Lockean parentage of the revolutionary ideas see also note 64 above.

⁹⁹ Kramnick mentions attacks on Locke by Bishops Horsley and Horne who were peripheral to the 1790s debate, Richard Hey and William Paley who did not explicitly attack Locke’s politics, and a quote from the *Anti-Jacobin*, which proves the opposite of his claim – lamenting

A final point concerns the high degree of correlation between loyalist writers ignoring or actually expressing reservations about Burke's ideas, and their articulating positive attitudes to Locke. Thus, the anonymous author of *Letters to Thomas Payne* rejected Burke's proposition that the 1688 settlement is in principle binding on posterity, while John St. John in his *Letter*, claimed that Burke's assessment of William the conqueror's constitutional status was incorrect. Other loyalist pamphlets which embraced Lockean propositions (without mentioning Locke himself) and criticized Burke's views, were the anonymous *Constitutional letters*, which, though directed against Paine, espoused Lockean views – such as regarding a constitution more sacred and inviolable the nearer it approached “to the restoration of the rights of nature” – while distancing itself from Burke's principles “in his fallen state of political apostacy [sic]”; and the anonymous *An address to the Right Hon. William Pitt*, which presented the Lockean assertion that “the power of Kings results from the consent of the People”, while accusing Burke of defending despotism.¹⁰⁰ This correlation, though not absolute, was also significant among the loyalists who criticized Locke. Although some of those who attacked Locke some expressed only lukewarm support for Burke, most of the loyalist writers who explicitly and directly rejected Locke and his ideas, and all of those who attempted to do so in an extensive and intellectually serious manner, such as Francklyn, Tatham, Samuel Cooper and Bowles, indicated an affinity with Burke's views.¹⁰¹

radical writers' perversion of Locke's principles. See Kramnick “Republican” p. 651, Montluzin *Anti-Jacobins* p. 45 note 36.

¹⁰⁰ [Jephson?] *Letters* pp. 364-365, 371; St. John *Letter* pp. 209, 212; [Anonymous] *Constitutional letters* pp. 147, 149-150; [Anonymous], *An address to the Right Hon. William Pitt, on the probability of a revolution in this country* (1792) PW vol. VII pp. 176, 182. See also Hearn *Short View* pp. 352-354. The only case I have found, in which it is claimed that Locke and Burke agreed, is the *Two systems'* spectacular misrepresentation of Locke's ideas, discussed above.

¹⁰¹ Tatham's *Letters* was addressed to Burke, and explicitly attempted to defend the *Reflections* from its attackers, and Burke had expressed his approbation for Tatham's book on scientific method *The chart and scale of truth* (1790). Samuel Cooper's *First* was a defense of Burke's

Thus the dichotomy explicitly proposed by many radical authors between the ideas of Locke and Burke, was to a great degree mirrored in the loyalist camp too. With these considerations, this study now turns to the discussion of Burke's ideas, in the revolutionary debate.

Reflections from Priestley's attack, and Cooper also wrote to Burke on 10th November 1790 a private letter expressing his admiration for the *Reflections*. Bowles actively corresponded with Burke since at least 1791, and in March 1796 sent him a number of his published pamphlets (among them *Thoughts on the origin and formation of political constitutions* and *The dangers of premature peace*), as a mark of his "feeble endeavours" under Burke's "banners". Burke replied that in the latest writings by Bowles and by "Mr. Gifford" on the war with France the "whole substance of the cause is to be found", and added that if he will eventually publish his "Regicide Letters", he shall refer to their efforts in its beginning or a postscript, for "It is to betray a cause, not to do full justice to our fellow-labourers". It is not known what contacts with the ailing Burke (died July 1797), if any, Bowles had at the time he was composing his "Reflections on the influence of Mr. Locke's theories on government". But in a letter of January 1797, Burke had informed William Windham that he would have liked, but was too ill, to attend a proposed dinner with a small party consisting of "[French] Lawrence, Sir Wiliam Scott, Walker King and [John] Bowles". Thus Burke indicated that the latter was at this time close to the innermost circle of devoted Burkeans. See COR vol. VIII pp. 414-415 vol. IX pp. 224-227. See also Charles William, Earl Fitzwilliam and Sir Richard Bourke (eds.), *The correspondence of the Right Honourable Edmund Burke; between the year 1744, and the period of his decease, in 1797* (1844) vol. IV pp. 341-342.

3. Debating Burke - the perception of Burke's ideas in the 1790s

Among radical writers there was a wide range of attitudes towards Burke and his ideas. Many texts treated Burke's views by reducing all issues to ones of personal character or motive only. Moreover, this was done many times in a crude and abusive language, which refused to grant any merit whatsoever to the target of its attacks, and liberally employed malicious remarks and innuendos. Such displays could be found not only among tracts of negligible importance, but also in many of the more serious texts, in which gratuitous and crude remarks appeared alongside otherwise substantive attempts to refute Burke's ideas. Accordingly, Burke was variously accused, sometimes explicitly, many times implicitly, of having been educated at the Jesuit seminary at Saint Omer (thus casting on him the suspicion of being a crypto-Catholic), having a heated or even distempered mind (that is, being mentally unbalanced), of being personally corrupt (usually alleging he had been bought by a secret pension from the crown), and so on.¹⁰²

As to actual treatments of Burke's ideas, these ranged from claims that Burke suffered from a "total want of argument" or nearly so, through the related accusation of holding views that amount to "political Mysticism", to depicting him as a "Republican of the old Roman school! or, in other words, a high-

¹⁰² [Anonymous], *Short observations on the Right Honourable Edmund Burke's Reflections* (1790) PW vol. I pp. 57-72; John Thelwall, *Sober reflections on the seditious and inflammatory letter of the Right Hon. Edmund Burke to a noble Lord* (1796) PW pp. 330-340. Examples of graceless remarks by moderate radical writers were Macaulay's denigration, in her anonymously published *Observations* pp. 127, 136-138, of Burke's thought as tending to irrationality and agitation, and Wollstonecraft's accusation of Burke, in her *Vindication* (p. 45), of having produced the "paradoxical" *Reflections* to attempt and revive his fading fame. Burke noted that those writing against him (especially about his religion), including Wollstonecraft and Macaulay, "can do nothing in a public discussion without something personal about their adversary". See COR vol. VI p. 215. In some cases however, radical authors expressed respect for Burke, even when strongly disagreeing with his views. Such was the case with John Butler, *Brief reflections upon the liberty of the British subject; in an address to the Right Honourable Edmund Burke, occasioned by his late publication on the French revolution* (c. 1792) PW vol. III p. 349 which termed Burke "the world's greatest senator". Another example was Christie *Letters* p. 179. See also on this subject Clark *Reflections* p. 97.

toned aristocrat", or, most often as holder of the "rankest Tory" principles, a defender of "the High Tory doctrine of an inherent hereditary right in the Monarch, independent of the choice of the people".¹⁰³ In many cases, the same author did not refrain from raising, within one text, a number of mutually exclusive accusations against Burke's political argumentation, such as being a defender of divine right kingship *and* of government by aristocracy, or as lacking an argument *and* being an ideological Tory.¹⁰⁴

Among loyalists too, approaches to Burke varied. Most loyalist texts mentioned Burke favorably, some showering him with lavish praise. But among loyalist texts that mentioned Locke or Lockean principles favorably, there were some with a critical attitude to some of Burke's opinions. Some coolness or only guarded support towards Burke and his opinions was also discernible among writers connected to the High Tory circle.¹⁰⁵

Burke's place within Anglican opinion requires elucidation. This aspect of Burke has been particularly neglected by scholarship and cannot be fully discussed here. Nevertheless, it is important to bear in mind some general

¹⁰³ "[W]ant of argument" in Joel Barlow, *Advice to the privileged orders, in the several states of Europe, resulting from the necessity and propriety of a general revolution in the principles of government* (1792-1793, published in two parts) PW vol. III p. 266; see also Belsham *Examination* p. 96; Wollstonecraft *Vindication* p.7; Mackintosh *Vindiciae* p. 273. "Mysticism" in Thomas Cooper *Reply* p. 9; see also [Williams] *Lessons* p. 90. "[A]ristocrat" in Thelwall *Sober* pp. 341-343; see also Mackintosh *Vindiciae* p. 271. "[R]ankest Tory" in [Scott] *Letter* p. 162; [Belsham] *Historic* p. 74. See also Priestley *Letters* p. 318; Christie *Letters* p. 165; Barlow *Advice* p. 266. For descriptions of Burke as a Filmerian (implying of course anti-Lockeanism) see Bousfield *Observations* p. 99; Thelwall *Rights* pp. 447-448; [Belsham] *Historic* pp. 95-96. And for Filmerianism implied see Boothby *Observations* p. 273 and Paine *Rights* p. 65. For descriptions of Burke as a Hobbesian, see Macaulay *Observations* p. 124; Williams *Lessons* p. 86. But see also Mackintosh *Vindiciae* pp. 306, 386, where Burke is opposed to Hobbes (with the latter positively viewed).

¹⁰⁴ [Anonymous] *Defence of the constitution* p. 4; Barlow *Advice* p. 266; Mackintosh *Vindiciae* pp. 271-273.

¹⁰⁵ Recent scholarship has established that even among High Tories, Locke's treatment was far from uniform. William Jones damned Locke with Voltaire as being at the source of the contemporary attempts to destroy Christianity, and Lockean concepts such as "consent" and "contract", certainly proved obnoxious to High Tory writers. But at the same time, as prominent High Tory as Robert Nares, expresses an attitude that is at least ambiguous. See Gunn *Beyond* pp. 183-184; Nares *Principles* pp. 89-91. A study of the relations, intellectual and personal, between the High Tories and Burke is still wanting.

points. Although accused throughout his public life of being a crypto-Catholic, and certainly not belonging, intellectually or socially, to the High Tory circle, Burke was in fact a devoted Anglican, publicly committed to safeguarding the role of the established church in the state.

Moreover, he was socially very close to an exceptionally large number of figures who would climb to prominent church positions, an issue which has not yet been substantially treated by Burke scholarship. From the handful of Burke's close associates for many years at the *Annual Register*, three eventually reached top echelons of the Anglican Church: Walker King became Bishop of Rochester, Richard Laurence became Archbishop of Cashel and William Markham became Bishop of Chester and later Archbishop of York (second in the Anglican hierarchy). Markham was even godfather to Burke's son Richard, who entered Oxford early to study under him. Other friends of Burke who climbed high in the Anglican hierarchy were Thomas Barnard, Bishop of Killaloe and Kilfenora and later of Limerick, Ardfert, and Aghadoe; John Douglas, Bishop of Carlisle and later of Salisbury; Richard Marlay, Bishop of Clonfert and later of Waterford; and Thomas Lewis O'Beirne Bishop of Ossory and later of Meath (curiously, O'Beirne was born a Catholic and educated for the priesthood at St. Omer, but later converted to Anglicanism). Finally, it should be observed that probably the greatest praise and support for Burke's ideas, within the literature of the revolution debate, was to be found among Anglican clergymen who attempted to offer a response to radicalism that was different from High Toryism. Among these were William Sewell, Charles Hawtrey, Samuel Cooper, Edward Tatham and William Atkinson (although his authorship of an anonymous text is uncertain). Tatham publicly asked for Burke's guidance in setting forth the correct political principles to be used against the dangers of Lockean radicalism. It appears then, that many loyalists suspected that Burke was proposing a political ideology that was neither the pragmatic truisms employed by

moderate loyalists – often employing Lockean terms – nor the ideas of the High Tories, but rather something else, (perhaps connected to the world of Anglican traditions and ideas).¹⁰⁶

Having established that Burke's ideas were generally viewed as essentially anti-Lockean, the question arises of what kind of anti-Lockeanism it was. I propose that it was exactly the context of the attempt among loyalists to reject the Lockean political framework without adopting a High Tory position that an important insight into Burke's ideas was offered by a small number of writers (both loyalist and radical). The starting point for a consideration of this insight on Burke's position is that it was perceived as countering the Lockean argument, discussed above, of a dissoluble contract, establishing a trust for the individuals living in the state, subject to their consent, with the base for this political structure being the system of natural rights. Thus the alternative would have to be a theory justifying an indissoluble political society, allowing at most a limited role for trust or consent, and rejecting the system of natural rights. Paine certainly grasped this point when he made one of his main targets in the *Rights of man*, what he saw as Burke's idea of an inter-generational political obligation. Paine asserted that

[e]very age and generation must be as free to act for itself, *in all cases*, as the ages and generations which preceded it. The vanity and presumption of governing beyond the grave is the most ridiculous and insolent of tyrannies. Man has no property in man; neither has any generation a property in the generations which are to follow.

¹⁰⁶ The title for William Sewall's anonymously published *A rejoinder to Mr. Paine's pamphlet, entitled, Rights of man; or an answer to Mr. Burke's attack on the French revolution* (1791), speaks for itself. See also Hawtrey *Various* p. 64, who termed Burke's *Reflections* as "admirable performance"; [Atkinson?] *Concise* p. 191 strongly commended Burke's response to the revolution; Cooper *First* pp. 225-226; Tatham *Letters* pp. 1-2. To these might be added the anonymous author of *Answer to Dr. Priestley*, who described himself as an Anglican "lay-divine" and vigorously defended Burke's ideas against Priestley's.

He continued to claim that he was “contending for the right of the *living*, and against their being willed away, and controlled and contracted for, by the manuscript-assumed authority of the dead”, while Burke was “contending for the authority of the dead over the rights and freedom of the living”. Paine argued that Burke’s purpose was ultimately to set up an “Immortal power”, as if saying “O! parliament, live forever!”. And putting things in a practical light, Paine added:

The circumstances of the world are continually changing, and the opinions of men change also; and as government is for the living and not for the dead, it is the living only that has any right in it. That which may be thought right and found convenient in one age may be thought wrong and found inconvenient in another. In such cases, who is to decide, the living or the dead?¹⁰⁷

Another radical author pointing in the same direction was Mackintosh, who in a note near the end of the *Vindiciae* stated that to him, the only thing having the air of an argument in Burke’s latest two pamphlets (the *Appeal*, and *Letter to a member of the National Assembly*), was that a majority had not the right to change the system of government.¹⁰⁸

Among a number of loyalist writers too there was the recognition of this argument, and an attempt made to defend Burke’s view on it. Tatham noted that though most of England’s best laws were made before he was born, he was nevertheless happy to continue living by them, considering himself free.

¹⁰⁷ Paine *Rights* pp. 63-66. On p. 204 he proposed that Burke had formed his political creed on the principle of “binding and controlling posterity to the end of time, and renouncing and abdicating the rights of all posterity forever”. Other radical authors who recognized this argument were Macaulay who denied that men, whatever the constitutional circumstances, could “bind their posterity, to all succeeding generations, in the permanent chains of an unalterable law”; Belsham who sarcastically described Burke’s *Appeal*, as one “from the living to the dead”; and Williams. See Macaulay *Observations* p. 124, Belsham *Examination* p. 21, [Williams] *Lessons* pp. 90-91.

¹⁰⁸ Mackintosh *Vindiciae* p. 386. Against this argument Mackintosh brings a quote from Hobbes (of whom he approves, terming him sarcastically a “PROFANE PHILOSOPHER”) to the extent that there are those who, not knowing to distinguish between the people as multitude and the people as contained in the body of sovereignty, ascribe to the former what belongs only to the latter.

Such an argument treated the issue as merely an ongoing practice, without touching on its merits, or lack of; other loyalist authors treated the point more substantively.¹⁰⁹

Bowles touched on the practical dimension too, in his anonymously published *A protest against T. Paine's 'Rights of man'* (1792) when he commented that since continued obligation to laws is necessary for the order and existence of a state, so, until they are abrogated or modified, laws of past parliaments are indeed invested with authority. But in later writings Bowles treated the matter more substantially, arguing that men do not make their constitution, but rather it "is governed by a thousand influences, over which man has no control. It partakes of the genius-manners-habits-national character-climate-and all the absolute and relative circumstances of a Country". In effect each country's historical constitution shaped its people. Thus, a nation's constitution could be fundamentally altered only by a break-up of the generational chain, by

the establishment of some violent despotism, some ferocious system of tyranny, that may, by the influence of terror, maintain itself, until ancient impressions be almost effaced, and the recollection of former happiness be nearly extinct; until the steady adherents of the former system be cut off, by the axe of the executioner, or by a natural death; and until a new generation shall have arisen, trained up in habits of fear and servile submission.¹¹⁰

Another writer who offered a similar interpretation of this issue was Charles Harrington Elliot, who emphasized the continuing effect of legal obligations transacted in the past, rhetorically asking: "Are public treaties, bequests, or

¹⁰⁹ Tatham *Letters* p. 72. Another example of this claim (albeit without connecting it specifically to Burke) was [Green] *Political speculations* p. 35. Paine's answer to this argument was that "although laws made in one generation often continue in force through succeeding generations, yet they continue to derive their force from the consent of the living. A law not repealed continues in force, not because it *cannot* be repealed, but because it *is not* repealed; and the non-repealing passes for consent". See Paine *Rights* p. 66.

¹¹⁰ [John Bowles], *A protest against T. Paine's 'Rights of man': addressed to the members of a book society* (1792, 5th edition) PW vol. VI p. 48; Bowles *Retrospect* pp. 288-289, 327-328.

any other public and equitable transaction that took place before the birth of any man now living, obligatory at this day? Are the grants and leases made some centuries back, still to be considered as respectable muniments? And shall not the most solemn and exalted contract or compact that a whole nation could collectively make, be sacredly observed by that nation while the conditions on the other side are scrupulously fulfilled?”. But Harrington Elliot did not rest with this argument, and he addressed the wider issue of inter-generational obligation by denying that in politics there ever can be, a real generational separation. He described how by the accession of George II to the throne in 1727, though five monarchs and close to 40 years had expired since 1688, many of those active in the rise of William III to the throne were still alive, active and “[i]n gradual coalescence with younger legislators, they still preserved in the senate a sort of *collegiate identity*, which by the same means is continuable to the end of time”. In other words, far from shirking accusations about attempting to effect political immortality, Harrington Elliot accepted and reveled in the possibility, explicitly stating that thus “[t]he king and people, like a sole and an aggregate corporation, will descend together in legal and political immortality...”. In somewhat similar terms Frederick Hervey’s *New friend* expressly proposed that the binding of one generation by another meant the British could consider themselves in a collective capacity immortal. Thus “the nation, as one whole, always complete, though always changing, is perfectly capable of making a lasting compact”. Such a collective, for Hervey, was not a biological one, since it could be joined by new citizens who would “derive their claim to its protection, from their adoption of its laws and customs”.¹¹¹

¹¹¹ Charles Harrington Elliot, *The republican refuted; in a series of biographical, critical and political strictures on Thomas Paine’s Rights of man* (1791) PW vol. V pp. 322, 326-326; [Hervey] *New friend* p. 75. Another loyalist author treated the subject on a more abstract level, opining that even the most primary political society would not be calculated merely for the happiness of

But it is with two other authors, one radical and one loyalist, that the interpretation of Burke's ideas on this issue was most developed, and I believe, most penetrating. The first of these was Capel Lofft, whose *Remarks*, unusually for the period, managed to oppose Burke and his ideas forcefully, while displaying a serious attempt at understanding and describing them, while retaining in the main a tone that was respectful, honest and to the point.

Lofft described thus what he understood as Burke's idea of polity:

Government with him, seems a kind of interest, of which the usufruct only is in the Nation, as a private estate under settlement is in the present possessors: and to him it is, apparently, at least doubtful, whether the People, under any subsisting government on earth, have a right to make the system which their ancestors have left them, other than they found it. They may, it seems, in extreme cases, remove the Tyrant; but if the root of tyranny is interwoven in their political Constitution, they must, in obedience to the obligations contracted for them by their Ancestors, retain the radical vice so established, because it has been established.¹¹²

In other words, Burke's polity is like a foundation, whose funds established in the past can be managed by the present trustees (who can be changed if they do not fulfill their role), and even added to, but the principal terms of the fund must be adhered to, and cannot be changed.¹¹³

The second, and the most important text approaching Burke's political foundations in such a manner, was William Cusack Smith's anonymously published *The rights of citizens* (1791). This text is particularly significant, since

its immediate participants, since one of their first impulses would be considerations for the future of their children. See [Anonymous] *Remarks on Mr. Paine's pamphlet* p. 31.

¹¹² Capel Lofft, *Remarks on the letter of the Rt. Hon. Edmund Burke, concerning the revolution in France, and the proceedings of certain societies in London, relative to that event* (1791, 2nd edition) PW vol. II p. 280.

¹¹³ In opposition to what he saw as Burke's principles, Lofft stated his own, very much Lockean view of constitutional change thus: "Every law, I apprehend, which is not merely declaratory of immutable principles (for these derive their obligation from an independent and immutable source) may be repealed by the same authority by which it is enacted: an ordinary law by the ordinary power of the legislature under their general trust; a constitutional law by the constitutional power of the People under a special trust, committed to the legislature for that particular purpose". See Lofft *Remarks* p. 284.

its views are known to have been endorsed by Burke himself. Cusack Smith had sent a copy of the tract, a theoretical refutation of Paine, requesting Burke's approval, and he was not to be disappointed. Burke replied with a letter praising the tract, and adding that in fact some of the ideas in the text coincided with those of his own *Appeal* (then not yet published) – even asserting that those points where they coincided about refuting the “specious folly of the rights of men”, had been handled by Cusack Smith “much more fully, and much better”. Before the end of 1791, Cusack Smith published a second edition of the pamphlet, which, as well as including the letter of endorsement, was dedicated to Burke. It was the beginning of a personal and intellectual relationship that was to last until Burke's death.¹¹⁴

In the tract Cusack Smith denied that there could be a discussion of a generation as completely distinct from those immediately before or after it. In his view, a generation was an ideal being, fluid and diffuse, that could not be disconnected and considered separately. The only case in which distinct generations could be discussed, was when they were distinguished by a great amount of time. Furthermore, he observed that “[t]he very names by which we designate nations, as *Greeks, Romans, & c.* imply a unity of existence carried through successive and *connected* generations”. Hence, adjoining generations were not separated, but rather there were “at all times different generations” existing together.¹¹⁵

¹¹⁴ COR vol. VI pp. 302-304. In the same letter of July 1791 Burke agreed with Cusack Smith's critique of the *Reflections* as being too much concerned with the concrete, and too little with theory, but justified himself by his intention in the piece - reflecting upon a political event, and not “reading a lecture upon theorism [sic] and principles of Government”. For their subsequent personal and intellectual relations, see COR vol. VII pp. 3, 355-356, and vol. VIII pp. 118-121, 127-133, 243-245.

¹¹⁵ [Cusack Smith] *Rights* pp. 245-246. On p. 264 he pointed out that by various claims and suppositions – particularly by supposing the English to be ‘organized’ in a permanent political setting – Paine too was found to look on the people as bound by their ancestors, despite his claims to the contrary.

Turning to the more general question of the nature of the polity, he stated the principle he subscribed to by explicitly treating Paine's ideas. He addressed the rhetorical question about who is to decide about the convenience of legislation from one age to another, the living or the dead? Cusack Smith asserted the answer to be "both; or if you please, the living, - profiting by the experience of the dead". He continued to reject the claim of a majority having a right to change the constitution, describing it as "the claim of a part of the People – *in right of its numbers* to overturn the subsisting establishment – and frame a government *for the whole*". Cusack Smith proposed that if the right of the majority was not merely based on their strength being superior to the minority – and hence on arbitrary force – it must be based on "an anterior contract entered into by all the individuals of the incipient community among themselves" to vest the majority with such a right. In other words, to the notion that even a majority is bound by the basic terms of the constitution, which was supported by many (including Paine), he added the idea that the constitution cannot be essentially changed.¹¹⁶

After disposing of the claims for sovereignty in the majority, Cusack Smith treated the question of the extent of the sovereignty of parliament. He wrote in a note that

if the person - or the body in whom the whole executive power is lodged – be also a branch of the legislature – as is the case in England – any attempt of such power to alter itself – and assume the whole legislative authority – or a greater share of it than is vested in him by the constitution – is arbitrary and an usurpation; - but the *complete* sovereign legislative power may alter itself so far as is not inconsistent with the fundamental principles of the constitution.

The same point was later reiterated in a more concise manner, asserting that "the principal part of the national will is with us lodged in a majority of the

¹¹⁶ [Cusack Smith] *Rights* pp. 256, 260-261.

people" while at the same time "the sovereignty of this majority is qualified and abridged", by the fundamental principles of the constitution.¹¹⁷

Finally, uniting the various strands of his argument, Cusack Smith offered his general view of what a constitution like the British one was, a view which, as we have seen, Cusack Smith assumed to be reflective of Burke's own views about government, and which was indeed eventually endorsed by the latter. This view proposed that a constitution is a thing antecedent to government, belonging to all generations, and fixed in its principles, so that each improvement in it had to be referred back to a period – whether actual or supposed – of "original establishment", thus gaining for it "a title paramount to that of government". Therefore, he added:

I give the living generation the right of altering and improving, which their advocate Mr. Paine would deny them, and would in return bestow on them the dangerous privilege of demolition: - A constitution, like the Nation which takes benefit from it, is a permanent being, composed of fugitive parts; or rather 'tis a gem which the wisdom of each successive age has been employed to polish, 'till it attains a lustre which would astonish those who dug it from the mine.¹¹⁸

¹¹⁷ [Cusack Smith] *Rights* pp. 251, 262. He asserted the same principle again when on p. 267 he wrote that in a constitution the rights of the legislature to alter it must be subordinate to its "fundamental principles" which could not be altered.

¹¹⁸ [Cusack Smith] *Rights* p. 286.

PART II – Edmund Burke's political ideas

1. The “Bane of the Whiggs” - Burke on Locke and his ideas

A thorough study of Burke's attitude toward Locke and his ideas presents a number of significant difficulties, arising both from the source material, and from the need to assess its historical context. Within his voluminous output, Burke explicitly treated Locke or his ideas only in a relatively small number of places, and of those, some are of a problematic nature. There are only about a handful of instances in Burke's writings where Locke is explicitly mentioned, none of them very extensive. Other texts by Burke, like speeches he is reported to have delivered, are of disputed reliability, and in some cases they have unfortunately not yet been treated in the definitive scholarly edition of his works. Since many of the instances in which Burke treats Locke explicitly are connected to the latter's *Essay*, the political dimension of his treatment becomes even narrower.¹¹⁹

The paucity of explicit source material by Burke on Locke has resulted in a tendency by scholars to rely heavily on the accepted assumptions about the status that Locke and his ideas enjoyed in Burke's time, when interpreting the latter's texts. However in the past decades, scholarly studies have undermined the previously accepted assumption, according to which Locke's

¹¹⁹ Volumes IV and X of the WS, which have yet to appear, will cover various material from the year 1781 onwards, including the particularly important *Appeal*. An example of the problems with texts still untreated by the WS is that of Burke's speech addressing the debate on 7th May 1782 about William Pitt's proposal for a reform in parliamentary representation. It appears that the speech was never delivered, but a draft that Burke prepared was published in King's and Laurence's *Works* and subsequently in the PH. However, J.G.A. Pocock, having inspected the manuscript, claims that the published version is incomplete, so that until the appearance of this text in the WS, it should be treated with added caution. See Pocock *Politics* p. 225.

status in the 18th century was that of the ultimate authority on Whig constitutional doctrine.¹²⁰

These circumstances have contributed to widely different interpretations of the relation of Burke's ideas to Locke's. However, an attempt will be made here to show that a careful consideration of the extant material can enable a more precise description of this relationship. Interpretations of Burke's thought as essentially parallel to Locke's ideas, such as A. Cobban's assertion that even after the revolution in France "Burke was convinced that he rather than Fox had preserved the traditions of Locke", were formerly widespread, but have for the most part subsided. But B.T. Wilkins, and F. A. Dreyer, are among scholars still stressing Burke as being generally, in Wilkins' words, "within the Lockian tradition which he alters but does not destroy". Dreyer, albeit conceding some differences between Burke and Locke, holds that

Burke's [political] theory was orthodox Whiggism in the sense that it was compatible with Lockean principles. Many of Burke's most important principles were in fact Lockean. In some respects Burke is more developed and richer than Locke, but in no respect did Burke adopt arguments which placed him in fundamental opposition to Locke.¹²¹

¹²⁰ Probably most influential in the reassessment of Locke's status in his time and throughout the 18th century have been the studies by R. Ashcraft and M. Goldie. See for example Ashcraft *Revolutionary* and M. Goldie (ed.), *The reception of Locke's politics - from the 1690s to the 1830s* (Pickering and Chatto, 1999), 6 volumes.

¹²¹ Cobban *Burke* p. 55, and in the introduction to the 1960 reprint (p. xiv) Cobban remarks that he is even more convinced of Burke's affiliation to Locke's ideas, than when the book was originally published. "Lockian tradition" Wilkins *Problem* pp. 19, 23. "Lockean principles" Dreyer's *Burke's* pp. 5, 68-69, 81-84. Dreyer concedes that Burke may have believed the true principles of old Whiggism were different from the principles of Locke's *Two treatises*. Indeed he notes that "[i]t is significant that when Burke expounded old Whiggism in the *Appeal* he did not cite Locke". But for Dreyer the bottom line remains that Burke's affiliation to the Old Whigs does not contradict a Lockean interpretation of his theory, and though there are differences between Burke and Locke, "in basic political theory, Burke adhered to a Lockean framework". Dreyer acknowledges that most students of Burke's theory do not accept this view, but he points out even among them such as F. Canavan and L. Strauss, accept that Burke did argue at times on Lockean premises. Other examples of Burke viewed as close to the Lockean tradition see W.D. Love, "'Meaning' in the history of conflicting interpretations of Burke" in *The Burke Newsletter* 7 (1965-1966) pp. 526-538; D.

A middle ground is occupied by such as F. O’Gorman and J. Conniff, who propose that although Burke accepted some parts of Locke’s theory, he thought it unsatisfactory and combined it with additional ideas to develop a new theoretical compound. According to O’Gorman, Burke’s achievement was to cast a defunct Whiggism in a fresh mould, fusing elements from Locke, Bolingbroke and the neo-Harringtonians, into an ideological synthesis all his own: “[f]rom Locke he received his fundamental assumptions about the British constitution”, from the post-Lockean Whigs the view of a balanced constitution in which hereditary nobility plays a dominant role. For Conniff Burke accepted Locke’s psychology but saw it as an insufficiently dynamic explanation of man, and thus added to it a time dimension.¹²²

The change that has occurred in the last decades, in the way Locke’s place in 18th century Britain is viewed, has greatly strengthened the claims of those who see a conflict between the theories of Locke and Burke. The scholars who describe a general opposition between the thought of Burke and that of Locke, such as F. Canavan and J.L. Pappin III, subscribe for the most part to the view (originating mainly with L. Strauss and P.J. Stanlis) of Burke as a defender of the traditional natural law position against the new natural rights school associated with Locke. For Canavan the products of Burke’s mature mind reveal a “progressive though unavowed revolt against Locke’s philosophy”,

Cameron, *The social thought of Rousseau and Burke* (Toronto, University of Toronto Press, 1973) pp. 149-150, claiming that Burke was close in spirit to Locke’s ideas on political liberty.

¹²² According to O’Gorman Burke rejected Locke’s idea of contract, and believed the location of sovereignty was unalterably settled, but accepted Locke’s views on the nature of the constitution and on toleration, particularly the Lockean idea of the right of the individual to his own religious opinion. Conniff seems to view Burke as being initially a Lockean, who after failing in his early attempts to find an empirical psychological basis for values, turned in a Humean direction, adding the historical dimension to the empirical psychology, thus becoming “a Humean philosopher in action”. Another scholar adopting a middle view is H. T. Dickinson, who holds that Lockean notions like the original contract and natural rights were unimportant to Burke’s view of civil society, although he did not directly repudiate them. See O’Gorman *Burke* pp. 15-17, 63; Conniff *Useful* pp.10-11, 50-51; Dickinson *Liberty* p. 295.

replaced by a theory strongly resembling Christian Aristotelian theory (but Canavan cautions that Locke's theory always retained an influence so that "Burke to a large extent spoke the language of the social contract theory, and especially of its Lockean version: it was, after all, the language of his time. Nor was his thought ever wholly divorced from Locke's"). Pappin goes further in directly asserting that it is the "...tradition of individual rights that Burke opposed and that he traced back to the political philosophy of John Locke". However, it should be stressed that not all scholars who accept this conflict, see its source in any debt Burke might have owed to medieval natural law ideas. J.C.D. Clark, noting Burke's debt to 1688, remarks that this did not mean he was principally indebted to Locke. Instead, he argues that for Burke and most of the subjects of George I and George II, what defined and described Whiggery were texts like Sacheverell's trial and political achievements such as those of Lord Somers. Thus, for Clark, "[a]s a mainstream Whig, Burke argued against (without citing) Locke's extremist doctrine in *Two Treatises of Government* (1690) that people had a right to dissolve civil society at any time and for any reason they considered adequate". While I. Hampsher-Monk proposes another explanation, suggesting that Burke's opposition to Locke's doctrines about recoverable natural rights, were the continuation of a strand of English political thought having its source among the ideas of John Selden.¹²³

It is best to bear in mind that descriptions of Burke's alleged affinity to Locke's ideas are often unclear. For example, the distinction between Locke's

¹²³ Canavan *Reason* pp. 205, 88-89. Pappin "Burke's" pp. 115-127. Clark *Reflections* pp. 86-87, and on pp. 37-38 he claims that "Burke implicitly rejected (if he knew of it) Locke's argument in his *Essay Concerning Humane Understanding* (1690) that the antiquity of an idea did not confer prescriptive authority". I. Hampsher-Monk, *A history of modern political thought* (Oxford, Blackwell, 1992) pp. 270-272. An earlier scholar who regards Burke as opposed to Locke's ideas, is F.J.C. Hearnshaw, who writes that while Burke outwardly "bows down and worships" when coming across a "distinctly Lockian idea", only to circumvent it and "knock it over from behind". See F.J.C. Hearnshaw, *The social and political ideas of some representative thinkers of the revolutionary era* (G.G. Harrap, 1931) pp. 92-98.

idea of contract, and his view of the relations between rulers and ruled as a trust, is seldom made clear by scholars treating Burke's attitude to them. This is the case with J.C.D. Clark, when he implies that Burke's contractual view of government as an agreement between rulers and ruled, was also Locke's – which it wasn't. Such descriptions many times also suffer from an attitude that regards Locke's epistemological and political writings as one coherent system – regardless of the problematic, indeed glaring inconsistencies between the two (of which Locke himself was not unaware).¹²⁴

As the above examples make clear, the claims about Burke's attitude towards Lockean ideas touch on various general concepts in the thought of the two, and attempt to explain the relationship between these concepts (often using for support evidence for the perceived context of these concepts at the time). It is surprising to find that no significant attempts have yet been made to elucidate the issue by way of a detailed examination of particular discussions by Burke, of concepts and even of expressions that could be traceable directly to Locke. Indeed, lacking is even an attempt to learn about Burke's attitude to Locke through a detailed treatment of all of the instances where the latter is explicitly mentioned in Burke's writings. I shall attempt shall attempt such an examination in the pages that follow. ¹²⁵

An examination of Burke's position on Locke and his ideas should first consider why is it that the latter's name appeared so sparsely in the former's writings, indeed being completely absent from all of Burke's greatest political

¹²⁴ See Clark *Reflections* pp. 86-87; Conniff *Useful* pp. 50-51. About the inconsistencies in Locke's work see Laslett *Two* pp. 81-82.

¹²⁵ Even Pappin, who explicitly claims that Burke not only opposed the tradition of individual rights, but actually traced it back to "the political philosophy of John Locke", does not offer any kind of evidence for this claim. Not even one instance is produced by Pappin, where a position by Burke is actually directed at Locke or his works. Examples of Burke's ideas are produced and sometimes confronted with Locke's, but in no case are they claimed to be directly aimed by Burke at Locke. Pappin brings only one actual reference to Locke's writings, but even that is not claimed to be a target for Burke. See Pappin "Burke's" pp. 115-116.

works. Whatever his attitude to Locke's ideas, Burke obviously did not believe mentioning him would aid his cause. There are three possible explanations for Burke's avoiding the use of Locke's name: Burke did not agree with Locke; Burke agreed with Locke but thought bringing him up would harm his cause; Burke did not write or speak on matters relevant to Locke or his ideas. The second and third explanations are seriously undermined by Burke's deep involvement in political disputes in which Locke's ideas not only seem a most obvious and easy support to arguments he was making, but were indeed made by other participants in the disputes at the time. At the time the *Thoughts on the cause of the present discontents* (1770) appeared, resentment against the ministry often took the form of Lockean arguments, and Burke could have easily employed them, but in the pamphlet Locke and his ideas were completely ignored. Even when Burke claimed in the text that the people did not really wish for revolutions, he did not connect the idea to Locke's similar position, but rather to a quote from the Duc de Sully (17th century French statesman). Moreover, the passage that Burke quoted from Sully argued that revolutions were caused by weak government, directly contradicting Locke's famous contention that revolutions were caused by too strong a government.¹²⁶

During the American conflict many supporters of the Colonists' cause raised Locke's argument limiting the sovereignty of parliament on those not represented in it, Burke held on to a much more difficult path which, while supportive of particular American claims, nevertheless, refused to concede any measure of parliamentary sovereignty.¹²⁷

¹²⁶ *Discontents* pp. 255-256.

¹²⁷ Burke owned both the 1751 edition of Locke's *Works*, and the 1764 edition of the *Two treatises*. For examples of possible indirect treating of Locke and his ideas see *Sheriffs* pp. 317-318, which seems at least partly directed at the damage inflicted to good government by Lockean (and other kinds of) speculations, in the context of the American conflict.

In his struggles against the abuses of British rule in Ireland and India, Burke, even when appealing to natural law, never argued on Lockean lines. This was especially evident in the unpublished *Tracts relating to the Popery laws* (composed around 1765), where Burke employed more than anywhere else in his work arguments and terms involving natural law. Burke described the legislation that severely restricted the inheritance, marriage and education possibilities of Irish Catholics, as a transgression of natural law, but at the same time pointed out it was transgressing against the common law too, in effect basing his claims on an inextricable blending of the two. Moreover, none of the rights he claimed for the Catholics of Ireland, were individual or political, instead he demanded for them rights that were supposed to enable them to lead honest and purposeful family-centered lives.¹²⁸

In the *Appeal from the new to the old Whigs*, where Burke described the origins and history of the Whig political tradition, and attempted to trace his own descent from this tradition, Locke is not mentioned nor even hinted at – while a long list of 1688 Whigs, many of them half-forgotten, are mentioned and often quoted at length. It appears then that Burke's reluctance to use Locke's name, was maintained on repeated opportunities when it would have been not only possible but very convenient to do so.¹²⁹

The next stage in this examination of Burke's attitude to Locke and his ideas, will be to look at all the known instances of Burke's explicit references to Locke in his published and unpublished writings and speeches. Among these, the instances in which Burke mentioned Locke in works published during his lifetime amount to only two cases – both from the beginning of his career, indeed his first and second published writings, when not yet 30 years old.

¹²⁸ *Popery* pp. 437, 453-455, 465-467. For India see *Impeachment* pp. 353-367.

¹²⁹ *Appeal* throughout but see especially pp. 143-146, 158-159. It should be noted that in his writings about politics, Burke certainly did mention – though not copiously – and sometimes quote, from thinkers such as Cicero, Aristotle, Selden, Vattel and Montesquieu.

The first case is *A vindication of natural society*. Published in 1756 it purported to be a letter from an elderly nobleman to a younger one, discussing the faults of politics and indeed of political society, recommending personally a retreat from politics and ideally the setting up of a natural society. The text satirized the attempts by some writers on politics to “compass the Designs they pretend to have in view, by the Instruments they employ”; at the same time it had as an even more important “Under-plot” (Burke’s term), the exposure of the dangers which such reasonings pose to all established government and religion. Such a text has to strike a balance between undermining a set of ideas, while presenting them in a manner plausible enough for the satire to work. The result was that both at the time of its publication and in subsequent scholarship, many aspects and sometimes even the whole character of the *Vindication* have been seriously contested. A treatment of all the different aspects and interpretations of the *Vindication* cannot be carried out here. It suffices to point out that Burke found it necessary to add an explicatory preface to the second edition, stressing the satirical intent of the piece – after some readers had found its arguments rather too convincing.¹³⁰

It is often claimed that the *Vindication* was directed specifically against Bolingbroke and his ideas, but although the latter was certainly one of the piece’s targets, Burke himself stated in the preface, that he was addressing not a particular writer but a certain mode of argumentation prevalent among

¹³⁰ *Vindication* pp. 143, 136. Indeed some contemporaries (such as William Godwin), and some later scholars have maintained that the *Vindication* was actually not a satire but a true expression of Burke’s views or an aspect of them, at the time. See for example M. Rothbard, “A note on Burke’s *A vindication of natural society*” in *Journal of the History of Ideas* 19 (1958) pp. 114-118.

Regarding the claims that Burke’s views progressively changed during his career, it is remarkable to see how much his opposition to the views satirized in the *Vindication*, especially as concerned religion and the origins of government remained constant in the forty years after its publication. Especially interesting would be a study of the many parallels between this work and the 1796 *Letter to a noble Lord*. If the *Vindication* is to be seen as a non-sarcastic statement of Burke’s views at the time, these views must have been spectacularly reversed within a few years.

“several” writers. In fact Bolingbroke’s name did not appear even once in the original text of the *Vindication* (it was present only in the preface, although his ideas seem to have been alluded to a number of times, most noticeably in the similarity of the title to a work by Bolingbroke), while other thinkers like Hobbes and especially Machiavelli were awarded direct mention and treatment of their ideas.¹³¹

Locke was explicitly mentioned in the *Vindication* once, when the fictional noble writer discussed how despotism degrades human nature, and wrote that this consideration made “Mr. Locke say, with great justice that a Government of this kind was worse than Anarchy”. But this very praise of Locke’s argument, that anarchy is preferable to tyranny, was made ridiculous by the fictional nobleman’s view of all governments as tyrannies. Plainly, this treatment of Locke was critical in its tendency – it alerted the reader to the serious problem with claiming that anarchy (and especially advocating it - that is, revolt) was preferable to tyranny, when any government can be claimed as tyranny. It was exactly this charge that Burke repeatedly threw, almost 35 years later, at the revolutionaries in France, accusing them of purposely painting a dichotomy between their own notions of liberty and whoever opposed these, so that men would become reconciled to their “proceeding and projects”, out of conviction that there was no other option between tyranny and revolution.¹³²

It is worth noting that in addition to this explicit reference, the *Vindication* contains a large number of allusions to Locke’s political ideas, some of them

¹³¹ For the view of the *Vindication* as directed predominantly at Bolingbroke see the introduction to the text in WS vol. I, pp. 129-132. For a view emphasizing the attack against other thinkers see F. Pagano’s “Introduction” in his *Edmund Burke, A vindication of natural society* (Indianapolis, Liberty Fund, 1982) especially pp. xi-xxi. Pagano’s “Burke’s view of the evils of political theory: or, A vindication of natural society” in *Polity* 17 (1985) pp. 455-457 suggests that in the *Vindication* there is a refutation of Locke’s view of the state of nature, natural rights and men’s political motivation.

¹³² *Vindication* p. 157; *Reflections* pp. 227-231. Compare to ST sec. 225.

significant. Three brief examples will suffice as illustrations. The first is the *Vindication's* treatment of the terms state of nature, natural society and political society. These terms touch on the theories of several thinkers: "State of Nature" was rendered famous by Hobbes in his *Leviathan* but widely employed by later thinkers; "*Natural Society*" was Bolingbroke's; "*Political Society*" was prominently treated by Locke in the seventh chapter of his *Second treatise*. But the meaning assigned to the terms in the *Vindication*, and the relationship between them, are suggestive of Locke's theory far more than that of any other thinker (including Bolingbroke). The second example is the *Vindication's* attack on the abuses that judges and laws bring on men when society finds it inconvenient "having every Man the Judge of his own Cause". In other words, the legitimacy of political society as an adequate substitute for man's natural right to judge is undermined. Obviously this remark is directed at the problem with every man's right to judge in his own cause, that Locke had presented as the reason that made political society necessary. The third example is from near the end of the *Vindication*, where the text proposes that men renounce artificial society and artificial religion and bring themselves "into perfect Liberty". The proposition immediately evokes Locke's famous and recurring assertions in the *Second treatise*, that the state of nature is a "*State of perfect Freedom*" and a "*State of Liberty*". In effect Locke's justification of political society is put into doubt by pointing to his own extolling of the perfect freedom men have in the state of nature. Moreover, the *Vindication's* undermining of Locke's theory by the employment of naturalistic arguments, strongly suggests that the whole naturalistic premise is fallacious.¹³³

¹³³ Regarding the first example see *Vindication* pp. 138-139, and compare to ST sec. 4, 6, 14, 15, 48, 77, 83, 84 87, 220, 221. Regarding the second example see *Vindication* p. 172, and compare to ST sec. 13, 20. Regarding the third example see *Vindication* p. 183, and compare to ST sec. 4, 6. For additional examples of parallels compare *Vindication* p. 144 to ST sec. 103; *Vindication* p. 158 to ST sec. 94 (in the footnote); *Vindication* p. 182, to ST sec. 199-204. See also *Vindication* pp. 138-139, 142, 155, 172.

The second case in which a text published by Burke explicitly mentioned Locke, was his 1757 work about human understanding *A philosophical enquiry into the origin of our ideas of the sublime and beautiful*. In a number of places Locke's ideas on cognition from his *Essay* were explicitly treated, the most important of which was section XIV of the text, named "Locke's OPINION Concerning DARKNESS, Considered". In this section Locke's assertion that darkness does not naturally inspire terror was addressed, and while conceding that "[t]he authority of this great man is doubtless as great, as that of any man can be", Burke "with all deference to such an authority", rejected it completely, upholding instead a view completely opposite – that darkness did inspire terror. Locke was briefly mentioned in three more places in the *Sublime*: when Burke refuted Locke's definition of pain as only the removal of pleasure (and vice versa), seeing the two instead as independent sensations; when Burke commended the view (not peculiar to Locke only) that the faculty of judgment consists in finding differences; and when Burke attested to his agreement with Locke, who had claimed "with his usual sagacity" that most general words were taught before the particular modes of action to which they belonged were presented to the mind. There are several other places in the *Sublime* where Burke's ideas seem to touch on Lockean notions, in some instances possibly alluding to particular passages in Locke's work, but these do not alter the picture established by the explicit treatments of Locke in this work – Burke accepted some of Locke's ideas on cognition, and disputed others, while maintaining throughout his respect for the latter's reputation and authority in such matters.¹³⁴

After these two works from the 1750s, Burke never again published one explicit word on Locke, but in his unpublished output there were a number of places where the latter is mentioned. There are two minor instances where

¹³⁴ *Sublime* pp. 185-320, and particularly pp. 294-295, 201, 212, 310-311.

Locke is briefly touched upon, and both were fairly censorious. The first, the only one found in Burke's correspondence, is in a letter Burke sent in 1759 to Adam Smith. Expressing his appreciation for the latter's just-published *Theory of moral sentiments*, Burke found in the book only one fault – that Smith is “in some few Places, what Mr. Locke is in most of his writings, rather a little too diffuse”. This remark might seem to be relevant only to Locke's style, but it could also indicate a fear from attempts to put “diffuse” terms into political practice. Loyalist texts of the 1790s often described the language of Locke's political theories, as suffering from “expressions too loose and general”, which tended to destabilize politics.¹³⁵

The second instance is an unpublished and unfinished manuscript, dated June 1776, on the subject of education, where, while discussing a number of writers who treated the issue, Burke wrote that “Locke has wrote [sic] an express Treatise [on education]. It is not equal to his great reputation. But it shews [sic] he thought it worthy of the anatomist of the Human understanding”.¹³⁶ In addition to these instances there exist a number of places where Burke is recorded as having mentioned Locke's name either in a parliamentary speech or in drafts for a speech. The sources for this material are notoriously problematic, since the record of Commons debates from the period was created by collecting material of varied origin, like reports in the press, individual MP's notes, and later recollections of participants or onlookers. As is to be expected, such records and reports can be seriously incomplete, sometimes even making conflicting claims. Bearing in mind these limitations and without losing sight of the unsatisfactory nature and import of these sources, it is nevertheless worthwhile to review and include such material in the consideration of Burke's position on Locke. I have identified four cases during Burke's 30-odd years as an MP (1765-1794) in which he is reported as

¹³⁵ [Anonymous] *Puissant* pp. 20-21. See also Samuel Cooper *First* pp. 33-34.

¹³⁶ COR vol. I pp. 129-130; *Education* p. 243.

having mentioned Locke explicitly in the House of Commons. Additional cases may perhaps be identified in the future as the WS is completed, or as other material from the period is researched.¹³⁷

The earliest recorded mention of Locke by Burke in the Commons, is from the debate on the King's Speech of 13 November 1770, when he was addressing the growing discontent being sown by ministerial policies both in America and in England. Particularly contentious was the ministry's refusal to accept the repeated elections of John Wilkes, after he had been convicted of libel, as representative for the county of Middlesex (which included the cities of London and Westminster) in February, March and April 1769. The Commons decree, in May of that year, that the candidate repeatedly defeated by Wilkes, Colonel Henry Luttrell, would sit as the representative for Middlesex, was criticized by many as illegitimate. In his speech Burke remarked that

I do not say that we are not a legal House of Commons, I do not countenance the insolence of Westminster and the capital; but I must and will say, that many sober and good citizens, who are swayed by the authority of Locke, and other constitutional politicians, may have their doubts on this head. They may suspect us to be a House of Commons only *de facto*, and not *de jure*. When such an opinion prevails, is it safe for us, at such a critical period, to take upon ourselves the odium of imposing taxes, and all the other burdens and evils necessarily attending upon a war?

Burke's comment, in addition to being a general censure of "Locke, and other constitutional politicians" swaying many sober good citizens, also regarded negatively the particular view taking hold among some, according to which

¹³⁷ Burke was elected MP for Wendover on 23 December 1765, and took his seat in the Commons on January 1766 serving continually – but switching to represent Bristol on 3 November 1774 – until 9 September 1780 when he retreated from the Bristol electoral contest in the face of certain defeat. Elected as MP for Malton on 7 December 1780, he re-entered the Commons on January 1781 and remained its representative until retiring on 24 June 1794 (immediately following the completion of his duties to the Hastings trial), in favor of his son Richard, who was elected on 18 July 1794. But Richard died on 2 August 1794, before he could take his seat in the House.

the Commons would be only “*de facto*, and not *de jure*” legitimate. This sentence may allude to a specific passage in Locke’s *Second treatise*, where, as justification for the right of resistance, it is stated that there were instances when by his actions “*a King, ipso facto, becomes no King*”, so that “*the People may of right*” (*jure suo*) take arms against him (this being a quote Locke took from the writings of the absolutist thinker William Barclay (c. 1545-1608), to show that even he conceded a right of resistance in certain cases).¹³⁸

The second parliamentary reference to Locke by Burke is in the draft to the speech he delivered on 6 February 1772 about a petition by Anglican non-conformists (most of them clergymen) requesting the repeal of the 39 articles as a test for those ordained as priests in the established church. This is an especially problematic text, as there are several and seriously conflicting reports about both the written draft of the text, and the speech actually delivered. Thus both the text, and any inference from it, should be approached with added caution.¹³⁹ In the draft of the speech, as it appears in the *Parliamentary history*, Burke castigated the dissident petitioners by proposing that “[i]f the Church be, as Mr. Locke defines it, ‘a voluntary society, & c.’ then it is essential to this voluntary society to exclude from this voluntary society any members she thinks fit, or to oppose the entrance of any upon such conditions as she thinks proper”, adding that “this is Mr. Locke’s

¹³⁸ PH vol. XVI p. 1069; ST sec. 235, 237. Burke’s speech is brought by the PH from the reports in the *London Museum* for the year 1771, and the *Gentlemen’s Magazine* for 1771. The two reports are almost identical, but only the first has Burke explicitly mentioning Locke. See PH vol. XVI pp. 1045-1046. The numerous and often conflicting sources for this speech are acknowledged in the WS vol. II pp. 334-336, which brings only an extremely short version of the speech, as was recorded in the diary of Matthew Brickdale MP, and in which none of the issues appearing in the quoted paragraph, appear.

¹³⁹ There are significant discrepancies between the speech as printed in the PH from the King and Laurence *Works*, and as appearing in the WS based on the report in the *Middlesex Journal*. Burke’s touching on a number of Lockean terms such as “rights of nature” and his explicit mention of Locke’s position on the church as a voluntary association, are reported in the PH, but not in the WS, which however notes that the speech as delivered seems to have included various points that are not to be found in extant drafts. The reliability of the reference to Locke in the actual speech remains unclear. See King and Laurence, *Works* vol. X p.1-20; PH vol. XVII pp. 275-285; WS vol. II pp. 359-364.

opinion, the advocate for the largest scheme of ecclesiastical and civil toleration of Protestants; (for to Papists he allows no toleration at all)". Additional comments made by Burke in this text criticized a number of Lockean terms and ideas explicitly employed by the petitioners. He was censorious towards the resorting "to the original rights of nature" in some cases when it suited the petitioners while not in others. But he was especially averse to the appealing to "the rights of nature" against existing political institutions. Pleading to "original liberty" by its overcoming of the authority of such institutions, in effect destroyed it. Moreover, it was a meaningless destruction, for political institutions were inevitable, and the "principle of necessity of human affairs" meant that new institutions with similar authority would eventually be established.¹⁴⁰

J.C.D. Clark, treats the text of the speech as dependable, but, curiously, seems to view the above comments as indicating Burke's agreement with Locke's position on religious toleration. Such a view not only ignores the conditional "if" that Burke put at the beginning of his remark, but it misses the whole point of the aside. Burke clearly intended to charge the position with hypocrisy, by showing the inconsistency both of the petition's Lockean argumentation, and of Locke's own intolerant attitude to the toleration of Catholics.¹⁴¹

The trend of Burke's comments in this passage was unmistakably anti-Lockean. Furthermore they bore witness to his identification of the petitioners' arguments with Locke's ideas: even though the petition did not actually mention Locke's name, Burke explicitly linked it to their arguments. If any of Burke's comments here are even partially dependable, they reveal

¹⁴⁰ PH vol. XVII pp. 251-254. Among the Lockean terms and ideas employed in the petition were the "...rights, competent to them...as men" and "...the right of private judgment". The Lockean terminology was intertwined in the petition with a militant protestant language, which against its own professions of tolerance, was almost comically abrasive and intolerant towards Catholicism.

¹⁴¹ Clark *Reflections* p. 265, in the notes.

that he used Locke's opinions on religious toleration as a mean to show the self-contradictions in the petitioners' Lockean arguments. In addition they bore a not-too-veiled criticism of Locke's reputation as a great advocate of toleration, in the mordant remark that the latter's scheme was intended only for Protestants, while it "allows no toleration at all" to Catholics (as indeed the petition itself, which for all its talk of religious toleration for protestants, included a harsh attack on Catholicism). Burke's aspersions at the hypocritical employment by the dissenter petitioners of Lockean "natural" rights argumentation, and his rebuking of the prospect of revolt implied in such argumentation, were certainly in line with his attitude to this issue, as already noted, in the *Vindication*, and to which he would return to in such later works as the *Reflections* and the *Appeal*.¹⁴²

A third and rather inconsequential reference to Locke in Burke's speeches is from 13 March 1780 during a debate on the abolition of the Board of Trade (a clause of Burke's Establishment Bill). Burke ridiculed the claim, made by one of the speakers, William Eden, which held that the fact illustrious literary names like Locke and Addison were among past members of the Board, could be an argument against its abolition. Burke is recorded as having paid "an elegant compliment to Mr. Locke, Mr. Addison, and Mr. Prior" but denied anything in the volumes of the board of trade could be considered as the literary production of these authors.¹⁴³

¹⁴² See PH vol. XVII pp. 275-285. Compare to John Locke, *A letter concerning toleration* (1689): "A church, then, I take to be a voluntary society of men, joining themselves together of their own accord in order to the public worshipping of God in such manner as they judge acceptable to Him, and effectual to the salvation of their souls". About Burke's attacks on rights of nature and right of resistance arguments as justifying revolutions, while upholding his view that only extreme "necessity" justifies revolt, and that too to defend the constitution and not destroy it. See *Reflections* pp. 100-102; *Appeal* pp. 150-151.

¹⁴³ Eden (from 1789 Baron Auckland in the Irish Peerage) was a politician and diplomat, whose pamphlet from 1795 would be the immediate cause for Burke writing his *Letter to the Earl Fitzwilliam*. In the 1780 debate, Eden, criticizing the proposed abolition of the board, proposed Burke peruse the 2300 volumes of that board's proceedings, finding in them that among past members Addison, Prior, Molesworth and Locke. Burke ridiculed the idea that he

The final reference to Locke in Burke's speeches is from the debate of 11 April 1794 on the "Bill for enabling French subjects to enlist as British soldiers", one of Burke's last parliamentary appearances, before his retirement on 24 June 1794. After C.J. Fox raised a number of objections to the proposed bill, Burke rose to reply with a mordant and at times quite sardonic speech. Burke's central argument was that the service of French soldiers under the British flag was legitimate by the acknowledged principles of the "*lex talionis*" (law of retaliation). He argued that since the French revolutionary government had, by its conduct, "forfeited all pretension to allegiance" of its subjects, the latter were in their turn entitled to retaliate similarly. Burke asserted that the law of retaliation was part of the "law and practice of nations", and added that "Locke is of the same opinion relative to the *lex talionis*; and though I do not subscribe to all that he had advanced, his authority is on every subject of great weight". In this, his last known mention of Locke, and the only one from the period of the revolution in France, Burke used Locke's authority to counter Fox's arguments, and then added his own assessment of the proper weight which should be ascribed to Locke's ideas. Though some of Locke's propositions were erroneous, his opinions should always be accorded consideration. Unfortunately, Burke did not specify which of Locke's ideas he did not accept, or if there were particular areas in which Locke's opinions were more reliable than others. However, it should be remembered that in this case Burke was attempting a specific refutation of Fox. Since Fox was an avowed Lockean, the effectiveness of employing Locke's authority to refute him required that this authority should not be questioned too much. In effect, Burke attempted to distance himself from Locke's ideas, as far as was feasible without completely undermining his use of the latter's authority against Fox.

should read the 2300 volumes, sardonically remarking that if the proposal is defeated, the massed volumes would make for a glorious mausoleum: "The corners of thy cenotaph shall be supported by Locke, by Addison, by Prior and by Molesworth!". See PH XXI pp. 235-239.

In such a context Burke was quite censorious of Locke. Indeed, given the generally sardonic tone which Burke adopted toward Fox in much of this speech, it is possible that the whole employment of Locke and the respectful tone towards his authority, was merely sarcastic.¹⁴⁴

An assessment can be now attempted, of all known instances in which Locke was explicitly mentioned by Burke. Notwithstanding the relatively small number of cases, and even allowing for doubtful reliability in some, the picture that emerges is fairly clear: Burke was very critical of Locke.

Expressing public regard for Locke's reputation, mainly as the author of the *Essay*, he as often as not disagreed with the latter's ideas on human understanding. In private, Burke criticized both Locke's style and his treatise on education. Towards Locke's political ideas, Burke was consistently and sometimes harshly censorious. In both the *Vindication* and in parliamentary speeches, as drafted or delivered, where Locke is mentioned, there appears time and again, whether implied or overt, one overarching denunciation: Locke's political ideas, by their tendency to overrule the decisions of existing governments with direct appeals to natural rights, and their unguarded allocation of the label tyranny, tended to undermine the legitimacy of all governments and to introduce the option of revolt into all political conflict. This attitude by Burke reflected Locke's high reputation for his authorship of the *Essay*; with the political writings on the whole neglected for a long time, but increasing in importance from the 1770s onwards, after being employed to legitimate radical proposals for political reforms. Accordingly, Burke, while maintaining an attitude of respect towards Locke's *Essay*, was censorious towards his political ideas. The need not to alienate the many in the English

¹⁴⁴ PH vol. XXXI p. 422, and compare to ST sec. 8, 10-12 (but the exact term *lex talionis* is not employed).

As examples of Fox's avowed Lockeanism see his 1783 speech reported in PH vol. XXIII p. 864, and his 1793 speech reported in Charles James Fox, *The speeches of the Right Honourable Charles James Fox in the House of Commons* (1815) vol. V p. 115. Burke directly attacked the latter speech in his *Observations* pp. 402-452. See also PH vol. XXX p. 922.

establishment (including undoubtedly many of his own political associates) who still embraced Locke's high reputation would explain the relative scarcity and circuitous nature of Burke's explicit invocations of Locke's name. The importance of such a strategy would grow during the 1790s, when Burke concentrated his political efforts – on top of his writing efforts – on encouraging the largest numbers possible from among the Rockingham Whigs to break with Fox, to join Pitt's government, and to abide by that partnership. A direct theoretical diatribe about the merits of John Locke could only have harmed those efforts. Thus the tantalizing claim made in Henry Yorke's *Spirit of John Locke* (1794), that "Edmund Burke, the Knight Errant of Feudality, declared in the House of Commons, that 'Locke's Treatise on Civil Government, was the worst book ever written'", has found as yet no corroboration – but seems to reflect the direction (albeit not necessarily the tone) of Burke's attitude to Locke's political ideas.¹⁴⁵

The review of all of Burke's explicit treatments of Locke, has shown the former as a decided if generally guarded critic of the latter's political ideas. If this material exhausted all of Burke's direct treatment of Locke's ideas, it would be hard not to conclude that, although Burke objected to Locke's political theory, it should be counted among many ideas and issues that were only of relatively peripheral concern to him. However, much of Burke's work bears directly on central aspects of Locke's political ideas without the latter's name being mentioned. Indeed several of Burke's most important works, and particularly the *Reflections* and the *Appeal*, were to a large degree sustained attacks on the most fundamental assumptions of Lockean political theory. The first pages of the *Reflections*, devoted as they were to refuting claims that 1688

¹⁴⁵ Concerning Locke's reputation, see Dunn "Politics" pp. 45-80 and Goldie's *Reception* - especially vol. IV: "Political reform in the age of the French revolution, 1780-1838". For Yorke's claim about Burke see [Henry Redhead Yorke], *The spirit of John Locke on civil government revived by the constitutional society of Sheffield* (Sheffield, [1794]), p. viii. The claim concludes Yorke's introduction to the small pamphlet, which consists in a text paraphrased from Locke's *Second treatise*. See also in Kramnick "Republican" p. 655.

had not gone far enough, amount to a rejection of the interpretation of that event as a (to paraphrase Pocock) Lockean moment. Burke asserted that the English in 1688 practiced “a close conformity to the practice of their ancestors”; that the Declaration of Right was a “renunciation” of elective monarchy, and a total submission of that generation and “*their heirs and posterity for ever*” to the existing constitutional system; that the nation, though free to take whatever course it wished, did not think changes in the constitution “within their commission”. Burke directly denied that if a government contravened the compact of constitution, there occurred a “decomposition of the whole civil and political mass, for the purpose of originating a new civil order out of the first elements of society”. Instead, what transpired in 1688 (and according to him, should happen in all such cases) was a regeneration of the deficient parts of the old constitution, through the parts not impaired, acting “by the ancient organized states in the shape of their old organization, and not by the organic *molecularae* of a disbanded people”. The whole argument directly negated the key Lockean image of political society as a collection of independent individuals.¹⁴⁶ Many other statements in the *Reflections* plainly tended in the same direction. Such was his remark about the speculatists being “always at issue with governments, not on a question of abuse, but a question of competency, and a question of title”, an effective rejection of Locke’s whole endeavoring to assert that political legitimacy was to be found only in governments’ conforming to natural rights and consent. The same approach informed Burke’s observation that the “new fanatics of popular arbitrary power”, in their dogmatic insistence that there is only a single form of lawful government in the world, resembled the “old fanatics”, followers of absolute monarchy by divine right. Similarly, Burke’s assertion that “the science of constructing a

¹⁴⁶ *Reflections* pp. 103-107.

commonwealth, or renovating it, or reforming it, is, like every other experimental science, not to be taught *a priori*", certainly seems directed against the arguments of Britain's Lockean reformers.¹⁴⁷

The *Appeal* was, if anything, an even more sustained attack on the fundamental premises of the *Two treatises*. As already indicated above, Burke ignored Locke's name in his description of the history and content of the traditional political views of the Whigs. About Locke's ideas the text was far less reticent. It related at length Burke's outlook on political society, its essence captured in the passage where he asserted that

Our country is not a thing of mere physical locality. It consists, in a great measure, in the antient order onto which we are born. We may have the same geographical situation, but another country; as we may have the same country on another soil. The place that determines our country is a social, civil relation.

The passage succinctly relates the distinctly anti-Lockean tenor of the *Appeal*, rejecting contract as a consensual agreement of individuals, the viability of a dissolution of government, and by implication natural rights.¹⁴⁸

These remarks and many others in the *Reflections* and the *Appeal* should not be seen as merely refutations of some points in Locke's political theory. Instead they amount to an evident and principled rejection of the whole theoretical purpose of Locke's *Two treatises*, as was avowed in the latter's own words: to "justifie [sic]" 1688 as an event which established William III's title to kingship "in the Consent of the people" as "the only one of all lawful Governments", and which manifested the people of England's love of "their Just and Natural Rights".¹⁴⁹

¹⁴⁷ *Reflections* pp. 110-111 ("new fanatics"), 147-149 ("always at issue"), 152-153 ("the science").

¹⁴⁸ *Appeal* pp. 207, and see also 211-215, 228-231.

¹⁴⁹ John Locke, *Two treatises of government* (1690) in "The preface". Indeed Burke explicitly denied Locke's assertion in the said Preface, as it had been reiterated by Price, that the King who owes his crown to the choice of his people was, (in Burke's words) "the only lawful

But, as much as such examples convincingly establish the manifest anti-Lockean import of Burke's political outlook, they still come short of definitively connecting this import to John Locke. For, it still could be argued that Burke and his contemporaries regarded these attacks as aimed only at Lockeans like Priestley and Paine. In various places, Burke's words against the Lockeans seem to imply they had a common ideology, which it would be hard not to trace back to Locke. Such was the case when, in a letter of June 1791 to Earl Fitzwilliam, Burke described the genesis of the *Appeal*, two months before its publication, as directly connected to his finding out that both the *Reflections* and himself were being accused of apostasy from the principles of the Whig party, and

that great, and almost systematick pains were taken to discredit that work [the *Reflections*] in the Party, to get its principles disclaimed; and of course (for medium there is none) to get the Principles of Paine, Priestley, Price, Rouse [sic – Rous is meant], Mackintosh, Christie &ca &ca &ca magnified and extolled, and in a sort of obscure and undefined manner to be adopted as the Creed of the party.

Similarly, in a letter to French Laurence from August 1791, Burke remarked that not only Mackintosh but “indeed all the writers against me are, either Paine with some difference in the way of stating, or even myself”.¹⁵⁰

Possibly, particular labels or descriptions, which Burke affixed to the Lockeans might have been associated by contemporaries with an intellectual tradition in which Locke was included. One such label was “speculatists”, employed by Burke at least from 1780 to describe the radicals as an extraneous ideological element appended to the Whigs. Another example is Burke's repeated indication during the 1790s that he had “reason to be

sovereign in the world”. See *Reflections* p. 98. For other examples of direct refutations of Locke's interpretation of 1688 see *Reflections* p. 116 and *Appeal* p. 147.

¹⁵⁰ Letter to Fitzwilliam COR vol. VI pp. 271-276. Letter to Laurence COR vol. VI pp. 311-312 – in this letter Burke admitted to not having read Mackintosh, relying instead on the report of the text by his son Richard.

persuaded, that it was in this country and from English Writers and English Caballers, that France herself was instituted in this revolutionary fury". The "speculatists", "Writers" and "Caballers" to which Burke was referring clearly comprised the Lockean radicals of his own time, like Price and Priestley, but also their (unnamed) intellectual predecessors. Burke hinted that the strain of speculative ideas in England was longstanding when he remarked that unlike the French, to which such ideas were "new", the English were "long satiated" with "bold speculations". Further research might establish the degree to which contemporaries associated such comments by Burke directly with Locke. At present such material may serve as adjunctive support for the general tendency of Burke towards his ideological opponents.¹⁵¹

Fortunately, I have found at least two cases in which it can be shown that Burke took upon himself to confront seriously and comprehensively the political principles of John Locke; instances when Locke and his ideas were directly addressed – not merely some element or part of it but its whole framework, not incidentally or parenthetically but clearly and distinctly. One such case can be found in Burke's *Observations* of 1793, a text which will be discussed at length below, in the chapter dealing with sovereignty. The second and more important case, offering the most extensive and obvious attack on Locke and his political ideas, was Burke's draft of the "Speech on a motion made in the House of Commons, the 7th of May 1782 for a committee to inquire into the state of the representation of the Commons in parliament".

¹⁵¹ For "speculators", "Writers" and "Caballers" see COR vol. vol. IV pp. 294-299; *Fitzwilliam* pp. 83-84; *Reflections* pp. 143, 147-149. For "long satiated" see Assembly p. 318. But C.C. O'Brien claims that Burke's consistent position from the time he wrote the *Vindication* to the *Reflections*, was that the source for radical ideas in Britain were the French "philosophes". See C.C. O'Brien, *The great melody: a thematic biography of Edmund Burke* (Chicago, Chicago University Press, 1992) pp. 450-452. For examples of SCI books from 1780 repeatedly and explicitly appealing to Locke's authority in their demands for reform, see I. Kramnick, *Republicanism and bourgeois radicalism* (Ithaca, Cornell University Press, 1990) pp. 183-184.

In the first half of the 1780s England witnessed a surge in discussions and proposals concerning political reform. This development was probably an effect of the American conflict and the constitutional debate that surrounded it. Most of the important advocates of constitutional reform (many of them dissenters¹⁵²) had gained prominence and respectability by their support of the American colonists, and among them were Major John Cartwright, John Jebb, Richard Price, Granville Sharp, Richard Brinsley Sheridan, Christopher Wyvill, Thomas Day, John Horne Tooke, Thomas Paine and Capel Lofft. Many of these were in 1780 among the founders of the Society for Constitutional Information (SCI), directed at effecting political reform in England itself. Members of the SCI and other radicals published at this time many pamphlets, appeals and petitions, containing proposals for political reform, many of them overtly Lockean in language and content. Burke was to become a long-standing opponent of the SCI. Indeed, the animus which the *Reflections* later meted out to radicals and their societies might very well have derived from a built-up apprehension from the damaging effects of their activities since the 1780s.¹⁵³

¹⁵² Burke identified appeals to natural rights as typical of the dissenting approach at least since his *Speech on conciliation with America* (1775), where he claimed that dissenter churches had sprung, unlike that of other Christian denominations, "in direct opposition to all ordinary powers of the world; and could justify that opposition only on a strong claim to natural liberty. Their very existence depended on the powerful and unremitted assertion of that claim". See *Conciliation* pp. 121-122.

¹⁵³ Among the prominently Lockean pamphlets from these authors were: Granville Sharp's *Declaration of the people's natural right to a share in the legislature* (1774), John Cartwright's *The legislative rights of the community vindicated; or, take your choice* (1776), and Richard Price's *Observations on the nature of civil liberty* (1776) – the last two made their debt to Locke's ideas explicit. About the SCI and its later activities see Clark *Reflections* p. 68. Richard Price's sermon delivered on 4 November 1789 to the meeting of The Society for Commemorating the Revolution in Great Britain (commonly known as the Revolution Society), and published as a pamphlet; the SCI's renewed activity cheering on the French revolutionaries; and Henry Flood's (the SCI's chairman at the time) introduction (with the blessing of C.J. Fox) of a proposal for parliamentary reform on 4 March 1790 - amounted to a resurgence of the radical offensive of the 1780s against the constitution, within a far more volatile and dangerous situation.

An additional shock to the political stability of the time was administered by the "Gordon riots", which engulfed London in June 1780. What started as popular Protestant demonstrations against a proposal for relief of legal restrictions on Catholics, headed by Lord George Gordon, turned into violent disturbances in which the mob effectively controlled the capital for a number of days, causing destruction and intimidating government. The disturbances were finally extinguished by armed troops, at the cost of hundreds of deaths among rioters. It has sometimes been suggested that Burke's anti-reformist opinions can be traced to his traumatic experiences during the riots, in which his own life was threatened. But although the events of June 1780 probably deepened Burke's suspicion of popular politics, he had already delivered a speech comprehensively opposing a reform proposal by radical MP and London Alderman, John Sawbridge, about the duration of parliament, almost a month before the riots.¹⁵⁴

At this time of ferment and unrest among various improbable proposals (like the Duke of Richmond's proposal of universal male suffrage, defeated in the House of Lord's without a vote), two reforms were most seriously considered. One was a shortening of the duration of parliaments (then septennial), repeatedly and unsuccessfully submitted to the House of Commons by Sawbridge. Another was a reform in the parliamentary constituencies (in order to make them more representative), principally promoted by the younger William Pitt. During his first years in parliament, while rapidly rising to power, he put his reform proposal to the vote first in 1782, then in 1783 an attenuated version, and an even more circumscribed one in 1785 (when already Prime Minister). Soundly defeated each time, he abandoned any more attempts after the third failure.¹⁵⁵

¹⁵⁴ *Duration* pp. 588-602.

¹⁵⁵ Charles Lennox, 3rd Duke of Richmond and Lennox, unsuccessfully introduced in the House of Lords on the 3rd of June 1780 a radical bill which included plans for annual

Burke did not hide his hostility towards all of these reform proposals, speaking at length against Sawbridge's motion in 1780, composing a lengthy draft of a speech against Pitt's proposal of 1782, and speaking briefly against the proposal of 1785. In the debate of 1783 Burke also attempted to address the House, but it is reported that "Mr. Burke rose to speak, but many members rising to leave the House at the time, he declined speaking".

Unfortunately, we can only speculate about what the content of Burke's intervention would have been, particularly as he had risen just after Fox had completed a speech (in favor of Pitt's proposal) which asserted that "Sydney, Locke, and others, writing on the constitution, had speculated far beyond what was practicable; yet much good resulted from their speculations, and they were great helps to the practicable beauty of which so much was boasted".¹⁵⁶

Burke's animosity towards the proposed reforms was not merely a result of disagreements about policy. Instead, he believed the debate about reform reflected the influence of a dangerous ideology which had infiltrated his party, the Rockingham Whigs, and which threatened to tear it apart. His views and concerns for this period are accurately displayed in a letter from as early as the 27th September 1780, to Joseph Harford (a Bristol friend and a radical). Burke's predominant concern in the letter was from

the admitting of any *Visionary* Politicians among us. We are sufficiently secured (by our exclusion from the Court), from the *mercenary* of the Tribe. But the Bane of the Whiggs [sic] has been the admission among them of the Corps of Schemers; who in reality, and at bottom, mean little more than to indulge themselves with Speculations; but who do us infinite Mischief, by persuading

parliaments, universal manhood suffrage and 558 equally populous electoral districts. In 1783 Richmond accepted Pitt's offer to join the ministry, and soon lost all further interest in reform. Sawbridge (brother of Catharine Macauley), had already published in 1770 the anti-Burke pamphlet *Observations on a pamphlet, entitled, Thoughts on the cause of the present discontents*.

¹⁵⁶ PH vol. XXIII p. 864.

many sober and well meaning people, that we have designs inconsistent with the Constitution left us by our forefathers.¹⁵⁷

In other words, there was among the Whigs a group that, instead of maintaining the party's traditional commitment to the constitution, supported an ideology of "Speculations". These "Schemers" seemed not to pose any serious threat to the state, but they undermined the Whig party's reputation as loyal to the constitution. Burke clarified that his problem was not with the views of some insignificant member of the party, but rather that "some of our *capital* Men entertain thoughts so very different from mine". As examples he mentioned the Duke of Richmond's proposal for universal manhood suffrage and annual elections, and Sir George Savile's support for more frequent elections. Burke conceded that with the party's leader, the Marquess of Rockingham and indeed with majority of the party, he did not differ materially, yet he predicted that the party's capability of making an efficient opposition would be seriously hampered with some of "the first Men of their Age and their Country" supporting reform; as for himself, he foresaw a predicament in which "I must either fly in the face of the clearest light of my own understanding, and the firmest conviction of my own conscience, or I must oppose those for whom I have the highest value".¹⁵⁸

That Richmond, Savile, Fox and others among the Whigs, were arguing their "Speculations" on Lockean, indeed on Locke's premises and ideas, seems

¹⁵⁷ "Letter to Joseph Harford" of 27 September 1780 in COR vol. IV pp. 294-299. Burke added in the letter a comment on the Westminster elections where Fox had been pressed to declare his support for various radical proposals - which he ignored, but was elected nevertheless: "You see in what sort of way Westminster was carried. There is in that City a sort of Whiggs, perfectly resembling the corrupt part of ours, and who would have done just as much Mischief, if they had been under any head. Fortunately they were not, and therefore instead of being detrimental to the Cause, their activity rendered them very useful". See also in this context Fox's letter to Burke concerning the election in COR vol. IV pp. 282-284; and Burke's "Letter to the chairman of the Buckinghamshire meeting" in COR vol. IV pp. 226-229.

¹⁵⁸ See COR vol. IV pp. 294-299. And Burke's mistrust of Richmond, sown in the early 1780s did not abate even a decade after the latter had joined Pitt's administration and served in it loyally. See F.P. Lock, "Unpublished Burke letters 1783-96" in *English Historical Review* 112 (1997) p. 137.

hardly disputable – and will be demonstrated below. But before proceeding, it is important to emphasize how this period of intense debate about reforms coincided, not incidentally, with the great surge in interest in the political theory of Locke, amplified by the American rebellion. Such writers as Soame Jenyns, Richard Watson, Baptist Noel Turner, Matthew Dawes and William Paley all published in the early 1780s texts dealing with Locke's political ideas. But by far the most important work, provoking in its wake an entire pamphlet disputation, was Josiah Tucker's fundamental repudiation of Locke's politics in his *A treatise concerning civil government* (1781). This spirited controversy about Locke's political principles was being carried out in the early 1780s, publicly enough to warrant a publication on the controversy itself – such as *The Dean and the squire* (1782), a satirical poem that outlined an imaginary conversation between Tucker (the Dean) and Jenyns (the squire), who “both stand stubborn as rock/Against the principles of Locke”. Many aspects of the relationship between Burke and Tucker are unclear, but they certainly knew each other's work (though on the same side of the American controversy, they exchanged some blows in their pamphlets, apparently becoming reconciled in 1778), and Burke almost certainly owned Tucker's *Treatise*. At any event, the MP's addressing issues of representation – including Burke – could hardly have lacked at least some familiarity with the general arguments in a controversy as public as this, and with the central place Locke's theory occupied within it.¹⁵⁹

¹⁵⁹ See Malcolm McGregor [William Mason], *The Dean and the squire* (1782). Among the works touching on Locke's political theory published in the early 1780s were: Soame Jenyns' *Disquisitions on several subjects* (1782); Richard Watson's anonymously published *An answer to the Disquisition on government and civil liberty; in a letter to the author of Disquisitions on several subjects* (1782); Baptist Noel Turner's *The true alarm: a sketch of a refutation of Mr. Locke* (1783); Matthew Dawes' *The nature and extent of supreme power, in which Mr. Locke's theory of government is examined and explained* (1783); and William Paley's 'The duty of submission to civil government explained' in his *The principles of moral and political philosophy* (1785). Among the pamphlets addressing Tucker's *Treatise* of 1781 were John Cartwright's *The people's barrier against undue influence and corruption* [1780]; James Dunbar's *Essays on the*

It is against this background that the significance of the following parliamentary debate, and Burke's draft of a speech addressing it, should be considered. On the 7th of May 1782, William Pitt the younger, at only 23 years of age a rising star in the Commons, proposed the creation of a committee to inquire into the state of parliamentary representation. The proposal, though eventually defeated, occasioned a significant debate, which – in spite of the notorious deficiencies of parliamentary records for the time – supplies a picture of the main arguments for and against such reform at that time. Though he is not recorded as having spoken in the debate, Burke composed a speech addressing it (evidently intended for some later use), thus supplying his views on the subject in direct response to the arguments and ideas presented in that debate.¹⁶⁰

Pitt argued his proposal on an interpretation of the tradition of the ancient constitution. According to this interpretation England's constitution had achieved an effective perfection since before the Norman conquest, perhaps even in the woods of Germany, and had continued essentially unchanged since, with occasional restorations to original purity when faults and

history of mankind [1781] (both of these reacting to a pre-publication copy circulating among Tucker's friends); James Ibbetson's *A dissertation on the national assemblies under the Saxon and Norman governments, with a postscript addressed to the Dean of Gloucester* [sic] (1781); Sir William Jones' anonymously published *The principles of government, in a dialogue between a scholar and a peasant. Written by a member of the Society for constitutional information* (1782); Joseph Towers' *Vindication* of 1782; and Tucker's two ripostes – "The evil consequences arising from the propagation of Mr. Locke's democratical principles", in his *Four letters on important national subjects* (1783), and his anonymously published *A sequel to Sir William Jones's pamphlet on the principles of government, in a dialogue between a freeholder in the county of Denbigh and the Dean of Gloucester* [sic] (1784). For these texts and their context see Goldie's *Reception* – especially vol. IV. See also Kramnick *Republicanism* pp. 173-175, 187-190. On Burke and Tucker see COR vol. III pp. 132-133, 180 and notes. See also Pocock *Virtue* pp. 169-184.

It is very likely – though not certain – that Burke owned Tucker's *Treatise*, since the two existing lists of the contents of Burke's library include that book. The lists were posthumous, compiled when the library was being sold (in 1813 and 1833), but they evidence only minor additions to the library. See "Catalogue of a library of books late the property of the Rt. Hon. Ed. Burke decsd" see manuscript in Oxford University Bodleian library, MS 16798; S. Deane, *Sales catalogues of libraries of eminent persons, vol. viii – Politicians* (Mansell Publishing, 1973) pp. 179-240.

¹⁶⁰ The debate is reported in PH vol. XXII pp. 1416-1438.

imperfections had accumulated as a result of political mishandling. Moreover, since, according to this view, the first principles of the constitution could be easily identified and restored, it followed that now too it would be possible and desirable to clear the impurities that had crept into it, and restore its original state. Pitt described his proposal as “moderate reform of such defects as had imperceptibly and gradually stole in to deface” the constitutional fabric, so that the representative branch had “far departed from its original purity”. Thus, he insisted, his was “not innovation, but recovery of constitution”. He proposed to do this by examining “the quality and nature of that branch of the constitution as originally established, and compare it with its present state and condition”.¹⁶¹

This view, holding that since the original principles of the ancient constitution could be clearly identified and restored, current political practice could (and should) be reformed in order to correspond with them fully, has been convincingly described by J.G.A. Pocock as “the ideology of the Ancient Constitution”. Pocock described as close to, but distinct from this view another ideology, termed by him “prescriptive conservatism”, held, among others, by Burke. This latter view, accepting the premise of an ancient and continuing constitution, nevertheless proposed that the ancient constitution had evolved historically according to circumstances, and as such could not be reduced – never mind restored – to original principles, but only accepted as a whole. That this was indeed Burke’s view, can be observed in many instances throughout the years, in which he touched on Britain’s early constitutional history, such as the fragment from 1757 where he observed “of what a visionary nature those systems are, which would settle the ancient

¹⁶¹ PH vol. XXII pp. 1416-1417.

Constitution in the most remote times exactly in the same form, in which we enjoy it at this day".¹⁶²

But it appears to me that Pocock's characterization of these two views, though essentially correct, is misleadingly labeled by him. By exaggerating the distinction between the two views, it obscures the fact that they were part of one tradition, and that there were many who held intermediate positions between them. Indeed it conceals the debt and continuing connection, which Pocock himself acknowledges, between Burke's view and the tradition of the ancient constitution. Since both ideologies believed in some kind of continuing ancient constitution, and employed the term explicitly, they should be seen as different branches of the same trunk, and I will address them thus: the first, embraced among others by the younger Pitt (at least in 1782), can be termed "originalist", since it held the constitution to have been originally perfect and remaining so; the second, held among others by Burke, could be labeled as "historical" since it held that the constitution developed with time, and that by and large its current state was the best expression of its principles. It should be emphasized that, while the "historical" interpretation of the ancient constitution tradition, for obvious reasons, was solely the province of loyalists, the "originalist" interpretation was appealed to by many radicals too (with the name of Algernon Sidney most prominently invoked as authority for such an argument).¹⁶³

¹⁶² *Abridgment* p. 443, see also pp. 430, 435; *Fitzwilliam* p. 82.

¹⁶³ For a general discussion of the problem and of the debate of 7 May 1782, see Pocock *Politics* pp. 202-232. Elsewhere Pocock traces Pitt's reformist argumentation to Bolingbroke. See Pocock *Virtue* p. 94. George Tomline, the younger Pitt's tutor, friend, secretary and later biographer, reported he had explicitly reprobated Locke's "notions on the origin of civil government, as unfounded and of dangerous tendency". It should however be remembered that Tomline was from 1787 an Anglican Bishop. See in G. Tomline, *Memoirs of the life of the Right Honourable William Pitt* (1821) vol. I, p. 9. For another view picture of Pitt's intellectual makeup see Sack *Jacobite* pp. 83-84.

Sidney's name was repeatedly invoked by radical texts, perhaps more than any other. Many times he and Locke were paired as twin authorities for political reform. Examples of the innumerable references to Sidney in radical texts from the last three decades of the 18th

However almost all of those recorded as speaking in support of Pitt's proposal, found the grounds for their arguments very far from those of the ancient constitution. Only one speaker, Charles Howard (styled with the courtesy title of Earl of Surrey), was recorded as favoring Pitt's proposal solely on grounds that might be regarded as those of the ancient constitution tradition, while another speaker, Sir Horace Mann, was reported to have supported reform in principle but stated that "now was not the proper time" for it. All other speakers recorded as supporting reform in this debate, among them Sawbridge, Savile, George Byng, C. J. Fox, Richard Sheridan and Sir Charles Turner, whether implicitly or explicitly, indicated their case as grounded in the theory that demanded what Turner described as a "fair and equal representation" in the Commons – an immediately recognizable reference to the familiar assertion by Locke in his *Second treatise*, about the people having a right to "a fair and *equal Representative*".¹⁶⁴

Most direct about both the background and import of these ideas was another one among such speakers, John Courtenay, about whose speech it was reported that he

confessed himself a warm friend of the motion, from a thorough conviction that a regulation was extremely necessary: he read a passage from Locke highly in favour of the regulation, and put a simile to the House: supposing, that he had an old mansion which had run to decay by the neglect of the steward, the upper part destroyed by a nest of [jack]daws, and the lower part undermined

century are: Rokeby *Considerations* p. 10, Towers *Vindication* p. 36, Parr *Sequel* p. 96, Yorke *Spirit* p. vii and Mackintosh *Vindiciae* pp. 364-365. An example of a radical text offering an extensive treatment of the ancient constitution argument see [Obadiah Hulme], *An historical essay on the English constitution* (1771). See also Dickinson *Liberty* pp. 204-205. Among those loyalists criticizing the radical use of the "originalist" interpretation of the Ancient Constitution were Young, who ridiculed the claims that an original purity of the constitution was to be found in "the woods of Germany", Josiah Tucker, and of course Burke. See Young *Example* p. 164 and Pocock *Ancient* pp. 46-47, 238-239.

¹⁶⁴ PH vol. XXII pp. 1422-1423, 1429-1433. Compare to ST sec. 158. The recurring and often explicit allusion to Locke by the term "fair and equal representation", used among other by Wilkes and Price, is treated in Kramnick *Republicanism* pp. 173-175 and S. Blakemore, *Intertextual war* (Associated University Press, 1997) pp. 180-181.

with rats – what would be necessary in that business? why, certainly, to pull the mansion down, and erect a new building in its stead; but he made no doubt people would say, what, destroy that old fabric, that place that was the admiration of your ancestors: no, do not touch it! He would answer, yes, I am determined to make the estate as valuable as possible.¹⁶⁵

That the ideas propounded by these speakers were understood by those taking part in the debate as very distant from Pitt's is plainly reflected in the answer most prominently reported by contemporary records, that of Thomas Pitt, William's much older cousin. Thomas warned his cousin from espousing the principles embraced by those who spoke in favor of his proposal; and later accepted William's protestation that the latter had in fact disclaimed the principle of equal representation in his opening remarks. In his speech Thomas touched on William's particular proposal only marginally, concentrating his criticism instead on the notion which "[t]heorists, it seems, have endeavoured to establish as a maxim, that that nation only can be free where no individual in it is governed but by laws to which he has given his assent in person, or by the mouth of one he has personally deputed to give that assent for him: freedom, therefore, is stated to consist in equal personal representation" – an obvious indictment of Locke's principles. Against such ideas Thomas Pitt argued that being "a balance against the power of the crown" was the "true and only principle" in the origin and purpose of the British parliament; and that the proposal to institute a committee would only serve to "open a general shop to receive all the projects of the wildest of the projectors". Moreover, he remarked, those who believed equal representation could be admitted in principle and then qualified, were wrong, since "the principle must be carried through, or it must be abandoned", because if equal representation "is a natural right, all have the right or none; there is no

¹⁶⁵ PH vol. XXII, pp. 1431-1432. Of rather idiosyncratic views, Courtenay supported Pitt's proposal for reform of May 1782, but opposed the later proposals of 1783 and 1785.

medium". Thomas Pitt's arguments can be described in the main as those of "historical" interpretation of the ancient constitution (and his tone at times was quite Burkean), regarding the function of the constitution as it had evolved at that time, as the true expression of its original principles.

Incidentally, Thomas was the elder Pitt's nephew previously mentioned, to whom, when at university, Locke was recommended as instructive reading material.¹⁶⁶

The setting of the debate to which Burke reacted, can be thus summed up:

William Pitt argued for an "originalist" restoration of an ancient constitutional purity, and Thomas Pitt presented the "historical" interpretation to the constitution as it had developed. Both Pitts rejected the political principle of "equal personal representation", espoused by almost all speakers who supported reform, and connected within the debate by those opposing and supporting it, to Lockean "natural right", and indeed to Locke himself.¹⁶⁷

In his text Burke first distanced himself from those speakers who stated they had no principled objection to change, and opposed it merely in particular circumstances. He placed himself clearly among those believing that "no

¹⁶⁶ Dunn "Politics" pp. 57-59; PH vol. XXII pp. 1424-1429. About William's disclaiming equal representation see p. 1433. In his 1783 proposal for reform, William's disclaiming of such Lockean principles was even more unambiguous, asserting: that "his idea of representation was this, that the members once chosen, and returned to parliament, were in effect, the representatives of the people at large, as well of those who did not vote at all, or who, having voted, gave their votes against them, as of those by whose suffrages they were actually seated in the House"; and the "innovation founded on doctrines subversive of liberty" which saw as legitimate only a House of Commons elected by all the men in the kingdom, he rejected as "a mere speculative proposition, that may be good in theory, but which it would be absurd and chimerical to endeavour to reduce to practice". See PH vol. XXIII p. 831 (and he reiterated the same position in 1785 too, see PH vol. XXV p. 435). In 1783 Thomas Pitt came to support William's amended proposal for change in representation, claiming it to be "extremely different" from the one he had opposed a year before. See PH vol. XXIII p. 863.

¹⁶⁷ Pocock, who describes the debate as presenting both a "rationalist doctrine based on a Lockean theory of natural right" and a modified form of the "ancient constitution" argument, focuses on Burke's answer to Pitt. While acknowledging that some of the speakers in this debate were "Lockeans", Pocock's treatment fails to underscore the fact that these "Lockeans" were the vast majority of speakers in favor of reform. See Pocock *Politics* pp. 227-229.

essential alterations are at all wanting" in the constitution, and that it is "never prudent or safe to be meddling with the fundamental principles and ancient tried usages" of the constitution.¹⁶⁸

Proceeding to deal with those supporting change, Burke divided them into two groups, based on the (for him totally different) grounds upon which they called for constitutional alterations. The first, characterized by Burke as "juridical", grounded change "in the nature of a claim of right, on the supposed right of man as man"; the second, characterized as "political", grounded change on a claim of discrepancy between the current practice of political representation, and the "theory of its institution". These were obviously the two ideological grounds for reform that the debate had witnessed: the first were the Lockean advocates for "natural rights" and "equal personal representation", the second was William Pitt's "originalist" version of the ancient constitution theory. This second view was dismissed by Burke almost offhandedly by pointing out that while the natural rights view "claims a personal representation", that of the ancient constitutionalist "rejects it with scorn and fervour". By observing that such reformers were cooperating with men holding principles completely at odds with their own, he strongly implied either intellectual inconsistency or political obtuseness on their part.¹⁶⁹

Concentrating on what he called the "right of man as man" group (to whose arguments, he pointed out, nine in ten supporters of constitutional change

¹⁶⁸ It appears that the speech was never delivered. Pocock claims that the version published in past editions of Burke's works is incomplete - unfortunately the WS have not yet published their volume covering this period. See Pocock *Politics* p. 225.

¹⁶⁹ *Representation* pp. 93-95. For a discussion of the historical and juridical traditions of social theorizing in the late 18th century see I. Hampsher-Monk, "John Thelwall and the eighteenth-century radical response to political economy" in *The Historical Journal* 34 (1991) pp. 8-12. In 1785, Burke was even more severe in his censure of Pitt's proposal for reform, accusing him of assisting by his proposals only the views that he opposed, for "[t]he doctrine which had gained so much ground, and in conformity to which this plan had now been introduced, was that of universal representation". See PH vol. XXVpp. 469-470.

subscribed), Burke observed that those who “plead an absolute right” of natural political representation, cannot accept this representation to be anything but a personal one. This is because

all *natural* rights must be the rights of individuals; as by *nature* there is no such thing as politick or corporate personality; all those ideas are mere fictions of law, they are creatures of voluntary institutions; men as men are individuals and nothing else.¹⁷⁰

From this naturalist political premise, he draws their principles as laying down that: “every man ought to govern himself”, that “where he cannot go himself he must send his Representative”, that “all other government is usurpation”, and that any such government “far from having claim to our obedience, it is not only our right, but our duty, to resist it”. Despite the modest extent of the current demands (a small reform in representation), the “extent of the principle”, if accepted makes the outcome inevitable. The principle negates the fundamental justification, not only the current state of representation, or even of the existing House of Commons, but of the whole system of British government. For Burke the implication was that to even attempt a dialogue based on the British constitution, with those holding such principles would be ridiculous, since that constitution was completely irrelevant to them.¹⁷¹

In short, Burke was comprehensively opposing his own view (which he held to be also that embodied in the British constitution) of the polity as a “politick or corporate personality”, to a “natural rights” ideology, that was not only distinctly Lockean, but to anyone acquainted with the terminology and references of those who supported it in the debate – as Burke certainly was – specifically Locke’s. It is hardly possible to view these assertions by Burke, against those he described alternatively as holding “right of man as man”,

¹⁷⁰ *Representation* pp. 94-95. See the similarity of wording and use of the term “politick personality” in *Appeal* p. 211.

¹⁷¹ *Representation* p. 95.

“natural rights” or “juridical” views, as anything other than the principled rejection of Locke’s most famous political assumptions: individual natural political rights; the politic or corporate personality as a mere legal fiction; each man’s right of governing himself directly or by representative, all other governments being usurpations; a right of resistance. All of these principles are explicitly enumerated by Burke, and then described not only as irrelevant to the British constitution, but even nugatory to its existence.¹⁷²

Burke’s articulation of the grounds on which those opposed to constitutional change on principle – among which he counted himself – stood, is also instructive of the notions he was attempting to confute. Burke asserted against the “natural rights” claims, that the British system was based on “a prescriptive Constitution”; a constitution “whose sole authority is, that it has existed time out of mind”. Consequently, all attempts to challenge the constitutional setting should be rejected on the grounds that the British constitution is prescriptively “settled” in its parliamentary form, and the same is true of the “the judicature, the whole of the federal capacity, of the executive, the prudential and the financial administration”. The import of this argument was wholly anti-Lockean, for its emphasis on the “settled” nature of the constitution, denied the whole premise of Locke’s *Second treatise* – that there exists a right in the people to alter the frame of the polity.¹⁷³

As has been amply attested, throughout Burke’s works are numerous examples of his antipathy to notions of Lockean natural rights (in their various appellations). He characterized them as simplistic, not to say primitive, and their effects as a threat to the very fabric of states founded on

¹⁷² About individual natural rights and politic or corporate personality as legal fictions see ST sec. 95, 96, 128, 158; about every man governing himself directly or by representative see ST sec. 88, 140, 157, 158; about all other governments being usurpations see ST sec. 90, 94; and about the right of resistance see ST sec. 208, 212. It could have been argued that these notions were not exclusively Locke’s, but the latter had been explicitly mentioned and quoted in the debate.

¹⁷³ *Representation* p. 96 and ST sec. 212.

constitutions like the British one. However, what is still lacking is a persuasive explanation of why he regarded such notions as not merely misguided, but seriously dangerous to the British political system.¹⁷⁴ Such an account, I believe, can be found in Burke's description in his 1782 speech draft against reform of representation of the Lockean demands for "natural rights" and "equal personal representation" as based on "juridical" grounds (while Pitt's historical claim for change was described as "political"). When this remark is added to others, like his observation from 1790 in the *Appeal*, that founding government on "imaginary rights of men", is at best "a confusion of judicial with civil principles"; and to his assertion from 1792, in the *Letter to Sir Hercules Langrishe*, that "contrary to the system of the insane reasoners", political, prudential decisions, differed from those "of the judicature", it emerges that Burke identified the Lockean approach to politics as legalistic, and ascribed the source of its baneful effects to the inappropriate mixing of legal and political concepts. This insight can also go a long way towards explaining many of the negative characteristics Burke attributed to natural rights arguments – such as being abstract, simplistic and unrealistically perfectionist – as a by-product of this legal approach to politics.¹⁷⁵

Burke did not reject the employment of legal concepts and terms within political discourse, and introduced them at various times in his arguments. What he opposed was an approach that regarded judicial positions as separate from and paramount to, politics. His own view of the place of law in politics, which he presented as the traditional one within the British constitutional tradition, was of a "science of methodized and artificial equity",

¹⁷⁴ In 1756 the *Vindication's* treated Lockean notions of natural rights as preceding political society; in 1772 the "original rights of nature", see PH vol. XVIII pp. 275-285; in 1782 "Right of Man as Man", see *Representation* pp. 93-94; in 1795 "Canon of the Rights of Man", see *Fitzwilliam* pp. 101-102.

¹⁷⁵ *Representation* pp. 94-95; *Appeal* pp. 256-258; *Langrishe* p. 600. See also *Reflections* p. 151.

with “corporations established for it’s conservation”. Legal arguments could and sometimes should be employed in political deliberation, but only as part of a process involving considerations of policy or prudence, and only within the established political traditions and institutions. He claimed that the British system of law and liberty was based only on the “*antient* constitution of government”, and that to know the “spirit” of this constitution, it was necessary to look for it in “our histories, our records, in our acts of Parliament, and journals of Parliament”. He opposed the view that would position an abstract and speculative legalistic logic, as supreme to all arguments from political history and practice. Such an approach accepted as valid only “natural” individuals and rights, thus justifying the creating and dissolving at will of all it saw as “voluntary institutions”, including government. It regarded such institutions as nothing more than technical and functional “fictions of law”, essentially denying the existence of political society as a real entity with a “politick or corporate personality”.¹⁷⁶

In Burke’s description of the introduction of such a politically abstract approach to France, his customary revulsion to revolutionaries seems to be surpassed by amazement. He related his conversations with Lord Camden (Chief Justice of Common Pleas and Lord Chancellor), in which they both expressed astonishment at the abolition in revolutionary France “of the law as a science of methodized and artificial equity”. The leaders of the revolutionary “sect” had

deliberately, at one stroke, demolished the whole body of that jurisprudence which France had pretty nearly in common with other civilized countries. In that jurisprudence were contained the elements and principles of the law of nations, the great ligament of mankind. With the law they have of course destroyed all

¹⁷⁶ *Regicide* I p. 240 (“corporations established”); *Representation* pp. 94-95 (“politick or corporate”), and for the similarity of this claim to Burke’s assertions in the 1790s see *Appeal* p. 211; *Reflections* pp. 117.

seminaries in which jurisprudence was taught, as well as all the corporations established for it's conservation.

Burke emphasized that he had not yet heard yet of any country even in Asia or northern Africa, which was wholly "without some such colleges and such corporations". The inevitable result of the policy was that in France no one "in a publick or private concern, can divine by what rule or principle her judgements are to be directed", nor can anyone, whether a university professor or Court practitioner "hazard" an opinion of what is or is not law in France. The revolutionaries had thus "not only annulled all their old treaties; but they have renounced the law of nations from whence treaties have their force. With a fixed design they have outlawed themselves, and to their power outlawed all other nations".¹⁷⁷

At the heart of the vision of the state and the laws presented by Burke, stood the disagreement about whether individuals had a right to be political judges in their own cause. Locke, while claiming to concede that "*Civil Government*" was the remedy for the inconvenience of men in the state of nature having the power of being "Judges in their own Case", by retaining in them this power exactly as concerns political matters, effectively undercut his own claim. In his system men have a power of political judgment in their own case, a power that is supreme to any government. Burke, in the passage of the *Reflections* that treats the relations between natural rights and government, appears to have been pointing to this problem. He first repeated the Lockean claim that "one of the first motives to civil society, and which becomes one of its fundamental rules, is *that no man be judge in his own cause*"; but, following it through, he pointed out that the result of this premise can only be that man, by this divestiture, "abdicates all right to be his own governor".¹⁷⁸

¹⁷⁷ *Regicide* I p. 240.

¹⁷⁸ ST sec. 13, 88; *Reflections* p. 150. Burke's argument here is consistent with his view of the matter almost 35 years earlier in *Vindication* p.172.

In the *Appeal* the political result of this Lockean contradiction is presented by Burke as the foundation of the views held and propagated by the modern Whig “factions”. Their object being “to divest men of all love for their country, and to remove from their minds all duty with regard to the state”, they heralded the opinion “that the *people*, in forming their commonwealth, have by no means parted with their power over it”. This idea was described by Burke as the “impregnable citadel” of the modern Whigs, for it implied that the people “are masters of the commonwealth; because in substance they are themselves the commonwealth”.¹⁷⁹

Thus Burke presented two opposing views of what constituted the foundation of government. One view, by starting from juridical rights of individuals, was based on individual consent, and thus always retained political power in the people. It regarded all political constructs such as constitution, government or contract, merely as functional instruments for the adequate management of the commonwealth. Power was practically delegated from the people, but only remained so by what Burke called their “pleasure” (perhaps implying too, that this conception of politics was rather close to that of absolute monarchy, where the constitution exists only at the pleasure of the sovereign – and this he stated explicitly in the *Reflections*). Burke argued that such a conception of the polity meant not only that in a practical analysis, ultimate effective power always remained in the people, but also that in the regular course of things such power must be continuously retained and practiced by them. Burke never denied that in every state, ultimate power rested with the people and their opinions, but he stressed that constitutions existed in order to prevent exactly the practice, necessarily terrible, of such unstoppable power.¹⁸⁰

¹⁷⁹ *Appeal* pp. 187-199. See also *Remarks* p. 474.

¹⁸⁰ *Appeal* pp. 202-203. In *Fitzwilliam* p. 84, warning that the French revolutionaries had their source in “English Writers and English Caballers” he characterized their ideas thus: “They are

The other view, which was Burke's own, regarded legitimate political authority as irreversibly bound to the terms of the particular constitution – in its widest sense – of each polity. The commonwealth in this case was not the population physically living in a certain place and time, but an entity defined by its constitution. Political decisions draw their legitimacy from being reached constitutionally, even when the majority of the people can be showed to reject these decisions (although Burke held such divisions tended in the long run, to be fatal to the state).¹⁸¹

Burke identified the “citadel” of the modern Whigs’ outlook as the people’s continuing “power over” political society. As has been shown above, he regarded this continuing power, as voiding political “contract” from meaning since the contract could be rescinded at will. But he had an additional and perhaps even more fundamental reason to reject the outlook as both wrong and dangerous: because it did not realize that men have an innate and potent craving for political power. Such a desire meant that “men love to hear of their power, but have an extreme disrelish to be told of their duty. This is of course; because every duty is a limitation of some power”. Burke linked the idea that obligations or duties are a limitation of power, to the political significance of men’s desire for power: “It is not necessary to teach men to thirst after power. But it is very expedient that, by moral instruction, they should be taught, and by their civil constitutions they should be compelled, to

always considering the formal distributions of power in a constitution: the moral basis they consider nothing”. His view he described thus: “I consider the moral basis as every thing; the formal arrangements, further than as they promote the moral principles of Government, and the keeping desperately wicked persons as the subjects of laws and not makers of them, to be of little importance”. See also *Regicide* II p. 288; *Sheriffs* pp. 314-319. See also *Duration* p. 598.

¹⁸¹ *Appeal* pp. 187-202. Compare to ST sec. 4, 6: “To understand Political Power right, and derive it from its original, we must consider what State all Men are naturally in, and that is a *State of Perfect Freedom* to order their Actions, and dispose of their Possessions, and Persons as they think fit, within the bounds of the Law of Nature, without asking leave, or depending upon the Will of any other Man”; and “But thought this be a state of liberty, yet it is not a state of licence” for “reason, which is that law [of nature] teaches all mankind, who will but consult it”.

put many restrictions upon the immoderate exercise of it, and the inordinate desire". Furthermore, Burke argued, this taste for "arbitrary power" in "vulgar" men of every description means almost all dissensions in the commonwealth concern not the manner in which power is to be exercised but "the hands in which it is to be placed". He added that with power, "[w]hether they desire it to be vested in the many or the few, depends with most men upon the chance which they imagine they themselves may have of partaking in the exercise of that arbitrary sway, in the one mode or the other". In other words the primary political question should not be where ultimate theoretical power in the state rests, but rather how are ambition and thirst for power dealt with. By stressing that the correct political concern about power should be the manner in which it is to be exercised and not where it should be "placed", he was apparently suggesting that a concern about the proper exercise of power inclined one towards seeking limits and controls upon it. Similarly, concern with the place of power fostered a propensity to stress its "arbitrary sway". Though by this view all political theories concentrating on the origin and locus of power (such as those of Hobbes, Locke or Rousseau), were shown to be basically misguided, and even harmful to civil society, Burke's wording brings to mind Locke's assertion, in the first of his *Two treatises*, that "[t]he great question which in all ages has disturbed mankind, and brought on them the greatest part of those mischiefs which have ruined cities, depopulated countries, and disordered the peace of the world, has been, not whether there be power in the world, nor whence it came, but who should have it". Locke and Burke it appears agreed that the discord over whom should have power greatly (and negatively) affected human affairs. But while for the former this was indeed the important political question that

had to be settled, for the latter it was a “vulgar”, wrong and destructive enterprise.¹⁸²

The disagreement was between an attitude to political power such as Locke’s, which sought to define and assert it, and that of Burke, wishing to control it. This divergence may have originated for Burke in what he saw as a fundamental misunderstanding of human nature, in relation to men’s desire for power, but, for him, this fundamental error was indicative of a wider problem with the political concepts of those he terms the “modern philosophers”, being crude, simplistic and primitive – suggesting to him similarly crude and primitive motives and ambitions. He described such thinkers at length as fighting over the names of rude power, without affecting the substance, and as espousing political concepts as those of the inchoate peasant uprisings of the middle ages, best conveyed by some rough popular rhymes.¹⁸³

Burke’s most sustained and comprehensive effort to describe and refute the “natural rights” political philosophy, while differentiating it from, and upholding the traditional political principles of the English constitution, those of the “Old Whigs”, was in his *Appeal*, of 1791. Although already deep into the controversy about the revolution in France, Burke’s attacks implicitly but repeatedly indicated Locke’s political theory as the source of the problem.

Three prominent examples will be now examined as illustrations.

The first example is the notion of majority rule being a “natural” political law. Burke expressed surprise that some political theorists “assume so readily” a power to act by majority among disbanded men after the “dissolution of an antient society”. Such assumption for Burke was simply wrong, because accepting the decision of the majority was not a law of “original nature” but

¹⁸² Locke *Two treatises*, in “First treatise” sec. 106.

¹⁸³ *Appeal* pp. 221-228; *Reflections* pp. 151-153 on fundamental defectiveness of simple government and on “primitive rights of men”; *Fitzwilliam* p. 80 on the “primitive staple” of revolutionary governments’ “frame”.

existed only in the artificial product that is "civil society" - and even there, men submitted to majority decision after "very long training", only by

a very particular and special convention, confirmed afterwards by long habits of obedience, by a sort of discipline in society, and by a strong hand, vested with stationary permanent power, to enforce this sort of constructive general will.

Indeed if any mode of collective decision deserved to be called natural, Burke observed, decisions by unanimity were a far more likely candidate. This argument directly confuted Locke's famous argument in the *Second treatise* for "the act of the majority" having "the power of the whole" by "the Law of Nature and Reason", because "if the consent of the majority shall not in reason, be received, as the act of the whole, and conclude every individual; nothing but the consent of every individual can make any thing to be the act of the whole". Locke then proceeded to reject unanimous consent as impractical, since "Such a Constitution as this would make the mighty *Leviathan* of a shorter duration, than the feeblest Creatures; and not let it outlast the day it was born in". These arguments, which Burke was contesting, were notoriously problematic ones in Locke's theory. The obvious problem with them was (and is) that Locke asserted the rule of majority was a law of nature, but did not prove it as such. Locke's attempt to salvage majority decision as the default option, by undermining the practicality of unanimity, did not prove the necessity of majority; Locke's effort to rescue his claim by alluding to the similar opinion of Thomas Hobbes' *Leviathan*, would only compound the problem for the great majority of the readers of Burke's time, who did not look very favorably on Hobbes, to say the least.¹⁸⁴

¹⁸⁴ *Appeal* pp. 211-212 (almost verbatim what is found a decade earlier in *Representation* pp. 94-95); ST sec. 96, 98. See also in Laslett's edition of the *Two treatises* note 333n. Some contemporary writers as prominent as James Mackintosh, upheld obviously Hobbesian ideas - and even owned to Hobbes as their source. See Mackintosh *Vindiciae* pp. 306, 386.

The second example is Burke's rejection of what might be termed a "natural" leap from the individual to a society. He believed such a leap to be specious, as a civil society, a people, is neither easily nor immediately created from individuals. This was for him true not only when the original creation of a society was discussed, but even when the problem was the fate of an existing society in which government has been dissolved. He remarked that "[w]hen men, therefore, break up the original compact or agreement which gives its corporate form and capacity to a state, they are no longer a people", they are only "a number of vague loose individuals, and nothing more". Furthermore in such a situation it was extremely difficult to "begin again" from the individuals "into a mass, which has a true politick personality". The assumption challenged was Locke's description of the formation of civil society from the state of nature, and the consequent claim that a dissolution and reconstitution of government was therefore feasible and in some cases even advisable. In essence, Burke was rejecting the assumptions behind Locke's theory that men had political rights and power that were distinct from and prior to government, and which continued in them even after government was established.¹⁸⁵

The third example is the idea of a free covenant as the basis of society. Burke believed it to be very unlikely, if not downright impossible, that there could ever be a truly "free covenant" society, starting with some original voluntary association. He thought this to be unfeasible even if government had recently been dissolved, because at that juncture, any number of men would then have an original right to create a state apart from the rest, and could not be joined to a state by force, as such incorporation would be void by the principle "which supposes society to be in virtue of a free covenant". In such

¹⁸⁵ *Appeal* p. 211; ST sec. 220-225. Pocock *Virtue* pp. 65-66, states that Locke insisted that a dissolution of government was not a dissolution of society. See also J.H. Franklin, *John Locke and the theory of sovereignty* (Cambridge, Cambridge University Press, 1978) pp. 92-94.

circumstances, who was to say that a number of new polities might not be created out of the dissolved old one? In Burke's opinion this exactly would be the most probable outcome, as in such a situation, a totally voluntary agreement on such matters as land claims, would be improbable, to say the least. Anyone would be able to claim any land he wishes, and by their very principles and concepts, the "modern philosophers" must prefer such claims by a "natural person, and not a fiction of state" – which has anyway ceased to exist. Thus Locke's claim about the free consent of individuals as the only true basis for a polity was rejected. Locke insisted that only a state created in a free covenant of consenting individuals is legitimate. Burke clearly indicated that no state was – or could be – formed in this way.¹⁸⁶

It was, for Burke, especially ironic, that the very same political theories which he showed to be not merely wrong but actually "vulgar" and "rude", were believed, by those who held them to be no less than "perfect" (and see discussion of this term above). He claimed that the revolutionary teachers of such theories "profess to scorn all mediocrity; to engage for perfection; to proceed by the simplest and shortest course". Therefore, "They build their politicks, not on convenience but on truth; and they profess to conduct men to certain happiness by the assertion of their undoubted rights". Since the "modern philosophers" believe they have perfectly understood man and polity, it is only natural for them to reject all other ideas as false and deceptive. It is equally natural, on these premises, to accept no compromises about establishing a government based on this perfect understanding, as "all other governments are usurpations, which justify and even demand resistance". Such principles, Burke believed, "always go to the extreme". They were extreme in their theoretical concepts – advocating an unprecedented

¹⁸⁶ *Appeal* pp. 213-215, and compare to ST sec. 95: "Men being, as has been said, by Nature, all free, equal and independent, no one can be put out of this Estate, and subject to the Political Power of another, without his own *Consent*".

union of power and will – and they were extreme in their political consequences – de-legitimizing any government that did not perfectly conform with such union.¹⁸⁷

Ultimately, for Burke, a political system that worked, and especially one as successful as the British one, was the best proof of its own reasonableness. But even if and when some reform might be needed in the constitution, the worse possible way by which to attempt it, would be by subjecting a political system to the judicial reasoning of such as the Lockean natural rights school. Such attempts could not but bring ruin on a constitution which did not move on the same tracks with the judicial approach. Burke's hostility to this Lockean approach was remarkably constant over more than 40 years: from his ridicule of those writers on political ideas which inanely attempted to "compass the Designs they pretended to have in view, by the Instruments they employ" in the *Vindication* of 1756, to his condemnation of the "Canon of the Rights of Man" (after it had already wrought ruin in France, but was nevertheless still invoked by English supporters of reform), as the "symbol of all evil", in the *Letter to the Earl Fitzwilliam* on which he was working virtually to the moment of his death in 1797.¹⁸⁸

¹⁸⁷ *Appeal* pp. 256-258; and the warning from ominous consequences of ideas that "justify and even demand resistance", is probably directed to Locke's claim that any state not based on consent, is a false commonwealth, and as such those in it are not bound to its decision. See also ST sec. 4, 89, 95-98.

¹⁸⁸ *Vindication* p. 143; *Fitzwilliam* pp. 101-102.

2. The “politick personality” – Burke’s political ideas

After having established Burke’s rejection of Locke’s political principles, it is now possible to attempt an understanding of its wider theoretical roots in Burke’s political thought. This chapter will examine four themes, which in my view, form the framework of Burke’s ideas about politics, and consequently his attitude to political ideas such as Locke’s. The four central political themes of Burke’s thought I will examine, are: (i) power and authority, (ii) opinion and reason, (iii) nature and artifice, and (iv) complexity and imperfection. In conclusion I will try to show how they came together, as (v) the elements of political society, envisioned by Burke’s thought.

(i) The “dread majesty”: power and authority - Edmund Burke regarded political power as essentially the control of physical force through the control of men’s actions. This view is evident in his treatment of the affinity between political power and liberty, in the *Reflections*: “The effect of liberty to individuals is, that they may do as they please”, but, he cautioned, “liberty, when men act in bodies is *power*”. Clearly, the underlying assumption is that concerted action by groups - “when men act in bodies” – is political power. But, by tracing the cause of the action (or, presumably, inaction), he identified political power with the authority that controls it. In this case, the authority was the will of individuals – when they “do as they please”, political power is an expression of liberty; conversely, when the action (or, inaction) of “bodies” of men is caused against their will, it is political power without liberty.¹⁸⁹ Accordingly, when treating liberty as a power in the polity, Burke emphasized that to assess its effects in a particular state there must an examination of how it had been combined “with government; with public

¹⁸⁹ *Reflections* pp. 90-91.

force; with the discipline and obedience of armies; with the collection of an effective and well-distributed revenue; with morality and religion; with the solidity of property; with peace and order: with civil and social manners". Clearly this list represents the powers which determine men's actions in the polity, and liberty is to be evaluated among such authorities of the polity: government, and its control of agents of public force and of revenue; non-governmental political forces such as the public's morality, religion, property and manners.¹⁹⁰

All such powers, politically considered, exceed to a great degree their physical or descriptive attributes. The significance of terms like "property" or "government", being much more extensive than any descriptive list of their material assets, necessarily means that such terms represent concepts, within which such assets are only a partial component. Thus the significance of a term like "liberty" cannot be understood as merely denoting a technical political practice (the free acceptance or refusal of political activity by individuals, or by a collective), but should be regarded as consisting, in the main, of the concept of liberty. Burke wrote as much when he observed that "commonwealths are not physical but moral essences. They are artificial combinations; and in their proximate efficient cause, the arbitrary productions of the human mind". It is therefore in the realm of ideas, the products of men's minds, that a political action can be judged as being an expression of liberty or of the lack of it. Burke, indeed, repeatedly remarked on how the English constitution was celebrated by some as the palladium of liberty, at the same time that others treated it as a synonym for slavery. Plainly, the same political action, can be construed as an expression of liberty or of the lack of it, depending on the particular idea of liberty entertained. It follows that to understand political power, it is necessary to inquire into how do political

¹⁹⁰ *Reflections* pp. 90-91.

concepts such as government or liberty exert control over men's actions, in other words inquire into their authority.¹⁹¹

In the *Sublime* Burke indicated that although there are various social factors directing men's passions, ideas and actions, power is first born out of men's fear. Such fear (which he terms terror) can arise from the potential threat posed by animal or human physical "strength, which is *natural* power", but at the same time, "[t]he power which arises from institution in kings and commanders, has the same connection with terror". By this distinction between artificial "power which arises from institution" and "*natural*" power, that is force, Burke proposed that political power consists in the transformation of direct physical force, into a general and indirect concept, bearing authority. The control over force wielded by institutions like kingship and military command, their authority, has very little to do with any direct threat of actual physical strength, and very much with the concept they represent. This is borne out by Burke's pointing out that the sovereign's authority described by the expression "*dread majesty*", was so strongly inherent in the English constitution, that only very few were able to overcome the feeling of awe that it had instilled towards the men in power. Political authority then, although it perhaps retains some elemental ingredient of primal fear, consists mainly in the transmission of the natural propensity for awe towards natural strength into a reverence towards artificial institutions.¹⁹²

¹⁹¹ *Regicide* I p. 188. And see Burke's attack on the views of Englishmen like Richard Price and the members of the Revolution Society, which imply England is not "a free country", when compared to the new freedom established in France, in *Reflections* pp. 143-145. And also the famous satirical etching published on 21 December 1792 by James Gillray "French liberty, British slavery", in R. Godfrey, *James Gillray, the art of caricature* (Tate Publishing, 2001) p. 97.

¹⁹² Burke connects power and fear to what he defines as sublime feelings, asserting that there is nothing sublime "which is not some modification of power", while at the same time noting that the common stock of every thing that is sublime is "terror". See *Sublime* pp. 236-239. The *Sublime* was first published in 1757, but in 1759 a revised edition appeared, with corrections and an additional new section on power. See also N. Wood, "Burke on power" in *The Burke Newsletter* 5 (combined issue Spring-Summer 1964) pp. 311-326.

But, Burke pointed out, institutions do not produce authority by their mere functional existence. In other words political institutions, even long established ones like those of the British government, do not draw their authority from themselves, or in Burke's words, authority cannot "stand on authority alone", it needs "some other support than the poise of its own gravity".¹⁹³

One way of supporting a government's authority is through installing fear by the direct threat of brute force. Burke repeatedly stressed how unusual it was, and not merely repulsive, for a polity to base its authority thus. Farthest removed from a rule of brute force were the traditional European states of his time, even relatively despotic ones. Because of the "mixed system of opinion and sentiment" which, extending a mitigating influence on political power, they differed greatly and favorably not only from contemporary Asian states but also from even the most brilliant of states in the antique world. However, according to Burke, even the purportedly arbitrary "Oriental Governments" (both of his own and of former times), such as the Ottoman empire and the states of the Indian sub-continent, were not ruled by arbitrary force, since there too religious and moral opinions exerted a check on the will of the ruler.¹⁹⁴ There had been in history some cases of barbaric conquerors or ferocious despots, who disregarded all opinions and traditions, but they were the exceptions to the rule, and many times even in their own days, they limited the scope of their despotism and regulated the laws ruling their subject's lives. Thus there was never a polity regularly and systematically

¹⁹³ Elliot pp. 36-40. This disagrees with Wood "Burke" p. 314, who claims that political power can generate its own authority. It seems to me that even in the *Sublime*, Burke's discussion of the institution of power clearly implied that the authority of political power is not really self-generated.

¹⁹⁴ *Reflections* p. 170; PH vol. XXV pp. 1273-1275. See also *Impeachment*: p. 361, "I challenge the world to shew [sic], in any modern European book, more true morality and wisdom than is to be found in the writings of Asiatic men in high trusts"; p. 363, "every Mahomedan Government...is by its principle a Government of law"; and pp. 265-366, about the Hindus (termed "Gentoos").

based on force, never “a government in the world in which there were not balances that distinguished it from an arbitrary government”.¹⁹⁵

Never, that is, until the revolution in France when, for the first time, a complete despotism manifested itself, a regime where “[e]very thing is referred to the production of force; afterwards everything is trusted to the use of it”. This was Burke’s analysis of the essence of what was transpiring across the channel, from his forecast for the future in the *Reflections*, warning that only brute power “will survive the shock in which manners and opinions perish”, to his assessment of the revolutionary regime in 1795, as one in which all traditional supports of government having been destroyed, and in which “popular choice even in shew ” was lacking, so that “[e]very other ground of stability, but from military force and terrour, is clean out of the question”. It could rely only on the support of troops and “Terrorists” (the term described those imprisoned for involvement in the Jacobin Terror, who had been released in 1795 by the convention government to help prop-up its tottering rule). Thus “[t]he whole of their Government, in its origination, in its

¹⁹⁵ PH vol. XXV p. 1274. The recurring example of a self-limiting despot in Burke’s writings was Oliver Cromwell, who “[k]new how to separate the institutions expedient to his usurpation from the administration of the public justice of his country”, and who “attempted to legalize his power”, so that his government was “somewhat rigid, but for a new power, no savage tyranny”. This was, according to Burke, because in Cromwell “ambition had not wholly suppressed, but only suspended the sentiments of religion, and the love (as far it could consist with his designs) of fair and honourable reputation”. And (clearly alluding also to the French revolutionaries) he added that these acts of Cromwell preserved England’s traditions and laws, “which some senseless assertors of the rights of men were then on the point of entirely erasing, as relicks of feudality and barbarism”. See *Assembly* pp. 302-303; *Remarks* pp. 497-498; *Reflections* pp. 165-166 (Henry VIII is given as an example); *Regicide* II pp. 288-289, where Burke brings Genghis Khan and Muhammad as examples of conquering and ruthless despots, but elsewhere he remarks that the political systems they (and Tamerlane too) founded were guided by sound moral principles – see the preceding footnote. In 1786, while still declaring that no completely arbitrary government had ever existed, Burke was implying that Hastings’ rule of India was potentially heading in that direction. After the outbreak of revolution in France he would more than once indicate that he indeed believed Hastingsian “Indianism” as a political twin of the revolutionary evil. See PH vol. XXV pp. 1273-1275, COR vol. VIII p. 432.

continuance, in all its actions, and in all its resources, is force; and nothing but force".¹⁹⁶

When Burke's distinction between the fear from physical "strength, which is *natural power*", and the artificial, political "power which arises from institution", is recalled, it transpires that a government which consists in nothing but force, by this reversion to direct physical threat becomes essentially anti-political, because what defines political power is for him an authority of concept, removed from directly physical threats.¹⁹⁷

Burke produced examples of this kind of support for authority, while discussing the authority of traditional governments, like Britain's. He asserted that "in the constitution of the human mind" prescription is an important foundation of political authority, accompanied "with another ground of authority", presumption. He viewed both of these as relevant grounds of authority in England's case, claiming that its constitution was a prescriptive one, and that if a nation has long existed and flourished under any "settled scheme of government", this is a "presumption" in its favor against "any untried project".¹⁹⁸

(ii) The "empire of opinion": opinion and reason - The conceptual frame supporting political authority was termed by Burke as "general opinion" or

¹⁹⁶ *Regicide* II pp. 288-289; *Reflections* p. 172, (and see also p. 252 about the revolutionary claim to liberty "ending with an abuse of power", and p. 369 about the revolutionary financial schemes being not even speculation but only "frauds mixed with force"); *Fitzwilliam* pp. 89-90, where he details this regular use of force thus: "A forced constitution, a forced election, a forced subsistence, a forced requisition of soldiers, a forced loan of money". Burke gave a concise version of his view in a speech of 1794, where he asserted that: "Mankind...in fact, never experienced a pure and merciless tyranny before the Jacobin authority of France". See PH vol. XXXI p. 424.

¹⁹⁷ Burke connected power and fear to what he defines as sublime feelings, asserting that there is nothing sublime "which is not some modification of power", while at the same time noting that the common stock of every thing that is sublime is "terror". See *Sublime* pp. 236-239.

¹⁹⁸ *Representation* p. 96. It should be noted that Burke himself had been among those who brought "the sacred rules of prescription" found in "the public law of Europe", into British statute law by bills such as the "Nullum Tempus Act" of 1769 Noble p. 172. See discussion of this issue in P. Lucas, "On Edmund Burke's doctrine of prescription; or, an appeal from the new to the old lawyers" in *The Historical Journal* 11 (1968) pp. 35-63.

most often as just “opinion”. This is the framework of “opinions” – principles, ideas, concepts, views – but also sentiments and customs, which determine men’s worldview, and eventually coalesce to form “the general sense of the community”. He described its importance:

[w]e know that empire of opinion is, I had almost said, human nature itself. It is however the strongest part of human nature; and more of the happiness and unhappiness of mankind resides in opinion than in all other external circumstances whatever.

Burke came to deal with the political role of opinion far more extensively after the outbreak of the French revolution, indeed increasingly so as it progressed; but his understanding of opinion’s crucial political role can be shown to precede the revolution by many years, and to be remarkably consistent in content and style.¹⁹⁹

In 1782 Burke was expressing his long standing view when he wrote, against a motion proposing reform in parliamentary representation, that, since “all government stands upon opinion” the motion’s attempt to undermine the long-standing opinion of political representation in the state, by removing

¹⁹⁹ *Impeachment* pp. 302-303. An early treatment of opinion is in *Sheriffs* p. 315, where Burke asserted that “[i]n effect, to follow, not to force the publick inclination; to give a direction, a form, a technical dress and a specifick sanction, to the general sense of the community, is the true end of legislature. When it goes beyond this, its authority will be precarious, let its rights be what they will”; and that not only taxation but “...no other given part of legislative rights can be safely exercised, without regard to the general opinion of those who are to be governed. That general opinion is the vehicle, and organ of legislative omnipotence. Without this, the extent of legislative power may be a theory to entertain the mind, but it is nothing in the direction of affairs”.

Burke’s thought on opinion has so far received relatively little scholarly attention. The best treatment of the subject to date has been R. Bourke’s “Sovereignty, opinion and revolution in Edmund Burke” in *History of European Ideas* 25 (1999) pp. 99-120. Bourke writes that for Burke “government depended on the opinion of the governed”. The origins of this view are traced by Bourke to William Temple in the 17th century, and to David Hume and Adam Smith in the 18th. See Bourke “Sovereignty” p. 100.

In some places Burke used the word opinion or opinions differently (such as when treating “public opinion” in relation to a specific issue), but in all instances treated here the term clearly denoted general principles and strongly-held beliefs. And for uses of the term in Burke’s time see OED vol. X pp. 858-859.

“reverence” and “confidence” would lead to the eventual destruction of the constitution as it existed. Fifteen years later, while composing the *Third letter on a regicide peace*, Burke addressed the danger from French revolutionaries in similar terms, when he accused them of professing “a resolution to destroy every thing which can hold States together by the tie of opinion”.²⁰⁰

“Opinion”, for Burke, was composed not only of the sum of men’s intellectual opinions. According to his view, in “the constitution of the human mind”, opinions are the conscious, at least partially reasonable element influencing men’s attitudes and actions, which intertwines with other significant elements of human behavior, such as habits, manners and sentiments. The close relation between these elements may be found in many of Burke’s writings. He described the reciprocal influence between “affections” and opinions, when (discussing the sympathy of the Foxite political opposition towards revolutionary France) he wrote that “[o]pinions, as they sometimes follow, so they frequently guide and direct the affections; and men may become more attached to the country of their principles, than the country of their birth”. He was even more explicit when he asserted the duty of government to attend to opinions because,

as opinions soon combine with passions, even when they do not produce them, they have much influence on actions. Factions are formed upon opinions; which factions become in effect bodies corporate in the state;— nay, factions generate opinions in order to become a center of union, and to furnish watch-words to parties; and this may make it expedient for government to forbid things in themselves innocent and neutral.

Thus, though passions, affections and manners were influential, Burke regarded opinions as the factor which ultimately conditioned all the other elements and as such was the most important – indeed the ultimately decisive

²⁰⁰ *Representation* p. 93; *Regicide* III pp. 339-341. In *Discontents* p. 252 Burke described the people’s opinion as “the great support of the State”.

one – among them. According to Burke, “[t]he social nature of man impels him to propagate his principles, as much as physical impulses urge him to propagate his kind. The passions give zeal and vehemence. The understanding bestows design and system. The whole man moves under the discipline of his opinions”. Peculiarly, the source he gave for the preponderance of opinions was not, as might perhaps be expected, that they were more rational than sentiments or habits, but, quite the opposite – that opinions, unlike feelings or manners, could overcome all reasonable restraints. Burke observed that it was difficult to calculate the force of “zeal for some opinion”, and certainly its power was not “in exact proportion to its reasonableness”, because “[t]here is a boundary to men’s passions when they act from feeling; none when they are under the influence of imagination”.²⁰¹ The great power of opinions meant for Burke that they should always be the concern of government. Indeed, long established opinions constituted to a great degree the essence of a state, and as such should be protected and fostered. Consequently, he argued, where necessary, established opinions were to be supported by formal means. A prominent example of such formal establishment was in the field of religious opinions – one that Burke defended throughout his career. While advocating a great deal of religious toleration, he nevertheless held the formal overseeing of religious opinions as a central responsibility of government. Burke explicitly asserted (in the context of a Bill proposing relief for Catholics) that a state was empowered

²⁰¹ *Regicide* III p. 310; *Religious*, p. 45; *Regicide* II pp. 278-279; *Appeal* pp. 239-240. See also in PH XXVIII p. 1370: “Opinions influenced the passions, and the passions governed the man”. Burke touched on these relations in the *Sublime*. In the preface to first edition, he claimed that there does not seem to exist any thing like “an exact theory of our passions, or a knowledge of their genuine sources”. Later he asserted that on “a superficial view, we may seem to differ very widely from each other in our reasonings, and no less in our pleasures: but notwithstanding this difference, which I think to be rather apparent than real, it is probable that the standard both of reason and Taste is the same in all human creatures. For if there were not some principles of judgment as well as of sentiment common to all mankind, no hold could possibly be taken either on their reason or their passions, sufficient to maintain the ordinary correspondence of life”. See *Sublime* pp. 188, 196.

to inquire into the religious opinions of all who lived under its protection. It had an uncontrollable superintending power over those opinions, and it was highly necessary for the prosperity, the safety, the good morals, and the happiness of the community, that it should have such a power. Opinions influenced the passions, and the passions governed the man; it was a natural effect, proceeding from a natural cause.²⁰²

Religious opinions were not unique in their potentially destabilizing political effects. Burke explicitly stated that only those who have superficially studied “the Natural History of the human mind” believe that religious opinions are the only cause of enthusiasm, zeal and sectarian propagation, for, in fact, “there is no doctrine whatever, on which men can warm, that is not capable of the very same effect”.²⁰³

Burke was also critical of setting political measures against the established opinions of a population. This was a recurrent theme especially in his censure of British policy in its overseas domains such as India, Ireland and most of all, America. He did not deny the supreme rights of British rule, but he held that working against established opinions was fundamentally counter-productive in terms of political results; and even worse, it had destabilizing effects on England’s own constitution. Thus, commenting in 1775 on Britain’s destruction of the established “ancient government of Massachuset [sic]”, Burke asserted that he was

much against further experiments, which tend to put to the proof any more of these allowed opinions, which contribute so much to the public tranquillity. In effect, we suffer as much at home, by this loosening of all established opinions, as we do abroad.²⁰⁴

²⁰² PH vol. XXVIII p. 1370.

²⁰³ *Regicide* II pp. 278-279. Burke held that the French revolution was predicated and carried out by violent atheists, who adopted religious zeal: “The rebels to God perfectly abhor the Author of their being. They hate him ‘with all their heart, with all their mind, with all their souls, and with all their strength’.”

²⁰⁴ *Conciliation* pp. 121-122. See also PH vol. XVIII pp. 498-499. About British policy and the opinions of India Burke see *Impeachment* pp. 302-303. For a more general statement see *Appeal* pp. 208-209.

The unsettling of established political opinions, was held by Burke to be, in all cases, noxious. It led, to the problem of "prevalent temporary opinions", impermanent ideas and fashions, which, even when aimed at political convenience or improvement, were inherently disturbing to the public peace and unsettled the constitution. Even worse, it led to innovation as a principle, a "spirit of change", that was the expression of a "total contempt" for all ancient institutions, "when set in opposition to a present sense of convenience, or to the bent of a present inclinations". The political result would be what had happened in France: "a monarchy, mitigated by manners, respectful to laws and usages, and attentive...to public opinion", had been replaced by a ferocious tyranny "without laws, manners or morals, which far from respecting the general sense of mankind, insolently endeavours to alter all the principles and opinions, which have hitherto guided and contained the world, and to force them into a conformity to their views and actions".²⁰⁵

The above passages underscore how established opinions, for all their predominance, still required "manners" and "usages" to sustain them. Burke stressed the mutual support between opinions and the other important springs of human action by consistently associating them, both rhetorically and substantially. Such was his depiction in the *Reflections* of the traditional manners, the "antient opinions and rules of life", destroyed in France by the revolution. Those long-established manners, originating in the age of chivalry, were typified exactly by their connection of feelings and ideas, what he described as a "mixed system of opinion and sentiment". Accordingly, he assigned to the revolution in "sentiments, manners and moral opinions", an importance greater than any strictly constitutional, political or administrative changes that the revolution had wrought.²⁰⁶

²⁰⁵ *Appeal* pp. 93-94, 179-180; *Reflections* p. 110. See also *Regicide* I p. 208; *Fitzwilliam* pp. 115-116.

²⁰⁶ *Reflections* pp. 170-172, 174.

For Burke, “opinion”, as a blend of sentiments, habits and ideas, constituted the underpinning for political authority. It was “the very ground and pillar of Government, and the main spring of human action”, and therefore the great concern of political philosophy. Thus, although it may sometimes appear as if authority itself is not directly affected by opinion, the latter’s long-term influence on institutions and traditions can undermine and eventually destroy these supports without which political authority will have to resort to brute force or crumble. Again, this relation is present in Burke’s analysis of British policies towards the American colonists, which “set up in opposition to the rooted and confirmed Sentiments and habits of thinking of an [sic] whole People, has produced the Effects which must ever result from such a collision of power and opinion”. He elaborated on the cause for the fatal results of setting power against opinion as follows:

[w]e have been too early instructed, and too long habituated to believe, that the only firm seat of all authority is in the minds, affections, and Interests of the People, to change our opinion, on the Theoretick reasonings of speculative men, or for the convenience of a mere temporary arrangement of State. It is not consistent with Equity or Wisdom to set at defiance the general feelings of great Communities, and of all the orders which compose them. Much power is tolerated and passes unquestioned where much is yielded to opinion. All is disputed where everything is enforced.²⁰⁷

Burke thus believed that the nature of political systems depended on the role of opinion in determining authority. A gradation of political systems can be drawn, according to Burke’s view of the role opinion played in them. At one end he put the kind of government most dependent on opinion – because

²⁰⁷ *Regicide* I pp. 294-296; *Address* pp. 262-263. The former is Burke’s most comprehensive and concise treatment of opinion, in a passage that has been excluded from almost all editions of his works, but it appears to have been authored by him and should be considered with his other statements on the subject. The editors of the WS discuss its history and include it as a separate text from the *Two letters on a regicide peace*.

least capable and disposed to rely solely on force – constitutional monarchy; at the opposing end, lacking all influence of opinion, is complete despotism based only on force, a modern development first established in revolutionary France. Other types of government, like traditional republics or even traditionally despotic monarchies, western or oriental, lay somewhere in between according to the degree to which their authority rested on opinion against force.²⁰⁸

Thus, for Burke “[a]ll authority, in a great degree, exists in opinion: royal authority most of all”. And he traced his vehement opposition to any compromise with revolutionary France directly to the crucial role of opinion in support of royal authority. Accommodation with revolution meant accepting that the ideas on which it was based were not outside the pale of civilized nations. Since those ideas were completely at odds with the established opinions underpinning all traditional European constitutions, the result had to be, eventually, the destruction of those traditional political systems. Burke believed the “Regicide Faction” ruling France was aware of this point, so that its policies were “perfectly systematick in every particular”, designed to disseminate principles and adopting attitudes that undermined the accepted opinion of monarchy. With such an example before their eyes, “[m]en would reason not implausibly” that it would be better for the nation to get rid of the monarchy at once, than to suffer it to “become the instrument of its degradation and disgrace”. But more than this, Burke asked, as the ideas and deeds of the revolutionaries affected the “general fashion of mind”, and the normalization of relations with the revolutionary regime would show it to be both powerful and legitimate, indeed, “fashionable”, will then “any one

²⁰⁸ See *Elliot* pp. 36-40; *Regicide I* pp. 263-264.

dare to be loyal? Will any one presume, against both authority and opinion, to hold up this unfashionable, antiquated, exploded constitution?"²⁰⁹

It appears that in regard to opinion Burke was charging the French revolutionaries with two different, apparently contrasting, accusations. On the one hand, he accused them of setting up a political system in which authority was based solely on force (that is, opinion had no role); on the other hand, he charged them with holding and disseminating systematically regicide opinions (that is, opinions were at the root of events). The way to reconcile the two accusations, was by holding that revolutionaries embraced ideas which by their nature, whatever the avowed intentions might be, had the unavoidable effect of producing a rule of force. Burke put forward this explanation, in a passage pointing to an inherent conflict between what he saw as two main revolutionary principles – of "Rights of Man", and of innovation. Treating the Directory's being "hardy enough" to try and raise confidence in its rule by acknowledging past falsehood and misdeeds and by having publicly "renounced the Creed of the Rights of Man, and declared Equality a Chimera", Burke remarked that their "recantation of the chief parts in the Canon of the Rights of Man" was possibly more despicable than their "originally promulgating, and forcing [it] down the throats of mankind...". He connected such unprecedented conduct with the fact that "[e]very thing, we hear from them is new, and to use a phrase of their own, *revolutionary*; every thing supposes a total revolution in all the principles of reason, prudence, and moral feeling"²¹⁰

As a result of this combined action, Burke believed, a kind of systematic despotism was instituted in France, a government the like of which was never before "seen, or even imagined in Europe". It was also the reason it was so

²⁰⁹ *Fitzwilliam* pp. 79, 115-116. See the similarity to his remark from 1782 that "all government stands upon opinion", in *Representation* p. 93.

²¹⁰ *Fitzwilliam* pp. 101-102, and see also pp. 86-88.

dangerous for Britain not only to make peace, but to have any kind of contact with the revolutionary regime, for “[i]t is a serious thing to have a connexion with a people, who live only under positive, arbitrary, and changeable institutions; and those not perfected nor supplied, nor explained, by any common acknowledged rule of moral science”.²¹¹

Opinion, then, may be said to have been regarded by Burke as the truly political power, the opposite of the un-politic power of force. Hence the importance of mooring within the framework of long-established ideas, sentiments and manners, this “strongest part of human nature”. Such a framework ensured that, political views and actions developed while keeping to the main lines of the existing political structure and without resorting to excessive coercion. Burke presented himself as a product of such a framework, with his own outlook shaped by England’s long-established political opinion that had become imbedded in it. Testifying about the constitutional views he presented in the *Reflections*, he claimed that: “I do not aim at singularity. I give you opinions which have been accepted amongst us, from very early times to this moment, with a continued and general approbation, and which indeed are so worked into my mind, that I am unable to distinguish what I have learned from others from the results of my own meditations”. Burke considered the artificial and acquired outlook he extolled, as being antithetical to the to the purportedly innate and rationalist one advocated by the philosophical school of natural rights. He warned that a rule of force would be the only result from the destruction of opinion effected by adoption of the modern philosophers’ absurd method of thinking about men and their affairs, which

[b]y what they call reasoning without prejudice, they leave not one stone upon another in the fabrick of human society. They subvert

²¹¹ *Regicide* I p. 240.

all the authority which they hold, as well as all that which they have destroyed.²¹²

(iii) The “condition of our nature”: nature and artifice – This discussion of Burke’s idea of the foundations of political society has touched repeatedly on his view of what is natural and artificial to men – such as when he distinguished between natural and artificial authority, or when he warned of the consequences of reasoning without prejudice. It is now time to treat this theme directly. Burke often asserted that his political principles conformed to “nature and reason”, an expression commonly used in 18th century political writing to describe what was held to be a self-evident truth. However, he made clear that his use of such terms carried a meaning completely different from that ascribed to them by writers on political ideas like those he satirized in his *Vindication*, and which he later described as the “modern” philosophers.²¹³

Burke contested the modern philosophers’ understanding of man’s nature and reason as autonomous faculties – to a great degree conflated into one faculty of natural reason – in the individual, which not only preceded but always remained independent of society and history. He regarded these faculties instead as the result of society and history. Explaining why men needed civil society, he wrote: “man is by nature reasonable; and he is never perfectly in his natural state, but when he is placed where reason may be best cultivated, and most predominates”. In other words, for man, society was “natural”, while an unsocial state was unnatural. Only when man was in society the faculty of “reason” could be fully acquired and come to predominate. Denying a state of nature where the pre-social individual was perfectly endowed with reason, as opposed to an imperfect, artificial social

²¹² *Reflections* p. 197; *Appeal* p. 211. See also discussion in Bourke “Sovereignty” pp. 111-113.

²¹³ *Vindication* p. 143. *Appeal* pp. 215-216. About principles “conformable to truth and nature” see *Appeal* pp. 256-258. See also about government being made for the “purpose of opposing that reason to will and to caprice” in *Noble* – on p. 157.

state, less natural and possibly less reasonable, for Burke the imperfect artifice of society was the only true natural state of man. Society was the only place where man could acquire some meaningful reason; or, in his famous phrase, "Art is man's nature". Artifice was for Burke a valuable human attribute; it was men's natural attribute, in the same manner as the nature of animals had nothing in it that was artificial. Within social artifice man was natural and reasonable; without the artifice of society, man forfeited his true nature and true reason, and descended into "a savage and incoherent mode of life" – becoming as natural and reasonable as a beast; in effect losing his humanity.²¹⁴ Burke did not set up a dichotomy between human "artifice" and animal "nature", instead he argued for the intricacy of humans and hence the complexity of what should be seen as "natural" to them. He neither subscribed to the idea of men possessing some nature or reason that existed wholly outside society, nor accepted that human nature and reason were only social artifacts. He saw human nature as a mix of an innate "first nature" and an acquired (therefore artificial) "second nature". Accordingly, he described his own (and the old Whigs') attitude to government, as addressing "human nature" by considering it at the general, "universal" level as well as at the artificial level, that had been modified by "local habits and social aptitudes". Burke regarded both of these parts as essential to men, so that attempts to separate between, or to detract from them were in effect unnatural. For him,

²¹⁴ *Appeal* pp. 217-219. He explicitly wrote that, outside of civil society men are terrible "in such a manner as wild beasts are terrible"; and see also *Reflections* p. 174. The idea of artifice being natural to man was accepted by Burke, more than 20 years earlier. When Adam Ferguson articulated it in his *Essay on the history of civil society* (1767), this was praised by a review in the *Annual Register*, a publication that was at the time certainly edited and very probably also written by Burke. The review quoted a passage by Ferguson, where he stated: "We speak of art as distinguished from nature; but art itself is natural to man" - a striking similarity to Burke's "Art is man's nature" of 1791. It can be safely assumed that Ferguson's phrasing influenced Burke, but it is unclear if the latter already held the idea at the time, or adopted it from the former. Burke certainly did not agree with all of Ferguson's ideas, for instance disassociating himself from the Scotsman's praise of ancient Sparta. See also T.W. Copeland, *Edmund Burke - six essays*, (Jonathan Cape, 1950), especially pp. 118, 139.

the artificial part of men's nature was not a costume cloaking the sober attire of innate nature and reason, but rather the clothing necessary for covering "our naked shivering natures" - a vital need of man's existence.²¹⁵

Burke did not limit himself to stressing the import of the artificial component of men's lives, but argued for the need to understand rightly the role of the innate part too. The naturalist political theories, which disposed of the artificial part of men, in Burke's opinion also failed in their interpretation of the innate part - regardless of their professed devotion to it. A good example of this view may be seen in Burke's treatment of natural familial ties between parents and children, as practically and morally superior to attempts at superseding them by an "enlightened" interpretation of what is natural. Such attempts, it should be remembered, were often made in the name of Locke's ideas on education, and on the supposed autonomy of children (Rousseau although also influential, was much less of an authority in England). In 1780, while speaking in the Commons against a proposal for taking poor Catholic children from their families (in order to educate them as Protestants), Burke defended the right of parents to determine their child's education, quoting as support Thomas Aquinas "against breaking the law of nature", and remarked that in this matter "the darkness of the twelfth century rose against the light of the eighteenth". He invoked the very same principle in 1791, when opposing the taking away of the French King's children from their parents (purportedly to receive a revolutionary reeducation) as a "violation of the first right of nature". In the same year, Burke more explicitly presented the

²¹⁵ *Reflections* pp. 171-172; *Appeal* pp. 256-258. Burke proposed as the method by which the veracity of a theory regarding man is to be tested, the asking of - "does it suit his nature in general; - does it suit his nature as modified by his habits?". See *Representation* pp. 99-100. Burke indicated that the strongest and most beneficial features of society are those that conform to such mutually supportive interplay of innate and artificial. See for example *Appeal* pp. 264-265, 206-207; *Reflections* p. 299. Burke can be shown to have held this view of human nature at least since 1757, when the first edition of *Sublime* appeared. See there his discussion of second nature in p. 265.

relation between parents and children as the first among elements of “vulgar, natural morality” whose duties the “practical philosophers” reject “as contrary to liberty; as not founded in the social compact; and not binding according to the rights of men; because the relation is not, of course, the result of *free election*”. He was confronting two opposite ideas of what should be regarded as “natural”. The first, “vulgar”, but natural and moral; the second, avowing compact, rights of men, and free election (that is, consent), but for Burke, unnatural and immoral. Although in this case Burke was attacking the ideas of French revolutionaries, the description also indicted the view of the relations between children and parents, indeed between all individuals, presented by Locke – as the use of the wording “social compact” (the term preferred by Locke) instead of the more Rousseauian “contract”, might imply.²¹⁶

Thus, for Burke, the approach of the “rights of men” resulted not merely in the destruction of the acquired part of men’s nature, but of the innate part as well. The opinions of the “rights of men” school, actively instituted by the revolutionaries in France, as they wrought destruction in the political sphere also unavoidably corroded men’s humanity. The revolutionaries’

[e]ndeavouring to persuade the people that they are no better than beasts, the whole body of their institutions tends to make them beasts of prey, furious and savage. For this purpose the active part of them is disciplined into a ferocity which has no parallel. To this ferocity there is joined not one of the rude, unfashioned virtues, which accompany the vices, where the whole are left to grow up

²¹⁶ PH vol. XXI p. 720; *Appeal* pp. 265-267; *Assembly* pp. 315-316. About Locke’s use of contract and compact see Laslett *Two* pp. 113-114. A different but concurring dimension of family relations was touched upon by Burke in a conversation reported by his acquaintance Frances Ann Crewe, in which he remarked about the colony at Botany Bay in Australia consisting of male convicts only that: “planting a colony of Men without Women was violating the law of Nature which ought particularly to be attended to on the outset of new Governments”, in H. Hart (ed.) “Extracts from Mr. Burke’s table talk” in *The Burke Newsletter* 5 (1963-64) p. 278. For a view similar to Burke’s see [Anonymous] *Remarks upon* p. 214.

together in the rankness of uncultivated nature. But nothing is left to nature in their system.²¹⁷

The success or failure of social and political systems depended on the degree to which they were attuned to men's true innate tendencies, and succeeded in channeling them to cultivate and support the whole. Britain was, for Burke, the eminent example of such a success, as through the "conformity to nature in our artificial institutions", the natural "instincts" aid "the fallible and feeble contrivances of our reason". Instead of drawing a dichotomy of separate nature and artifice, Burke approached human nature by viewing it to consist of a mixture of innate and acquired qualities, which we inextricably bound. Conversely, by its misunderstanding of what nature and artifice meant in human terms, the political structure offered by the naturalistic approach was one in which "nothing is left to nature", and in which "paltry artifices", bound to fail, were erected.²¹⁸

Burke identified the source of the erroneous approach to human nature as the denial of the social dimension of that nature. The human tendency towards social relations, stemming from the most innate and basic impulses, without any artificial input, was so essential that attempts to treat men as a-social individuals were unnatural, and, in a literal sense, inhuman. Not only an a-social human nature was a delusion, but adopting it led to a complete misinterpretation of terms like nature, artifice and reason. Burke's caustic verdict on the attempts by modern philosophers at "reasoning without prejudice", separated from social context, has already been described above. He presented his refutation of such views even more comprehensively in a passage that would have stood out as a direct contradiction of Locke's

²¹⁷ *Regicide* I pp. 246-247.

²¹⁸ *Reflections* pp. 111, 121. See also *Fitzwilliam* p. 82. Elsewhere Burke similarly described the British outlook about government as "following nature which is wisdom without reflection, and above it". In this case he acknowledged that the same policy might also be attained by "profound reflection". See *Reflections* p. 119.

approach to anyone even vaguely familiar with the latter's claim that men were by their nature "all free, equal and independent" (ST sec. 95). Burke affirmed that

[m]en are never in a state of *total* independence of each other. It is not the condition of our nature: nor is it conceivable how any man can pursue a considerable course of action without it's having some effects upon others; or, of course, without producing some degree of responsibility for his conduct. The *situations* in which men relatively stand produce the rules and principles of that responsibility, and afford directions to prudence in exacting it.²¹⁹

In accordance with this denial of human nature as being autonomous in character, Burke also rejected ideas of sociability which presumed such an autonomy. In effect, he negated all versions of the social contract (Lockean as well as Hobbesian), as an agreement between independent individuals arrived at on the basis of direct interests or formal commitments. In an important passage, which it is worthwhile to quote at length, he pronounced that,

[t]he operation of dangerous and delusive first principles obliges us to have recourse to the true ones. In the intercourse between nations, we are apt to rely too much on the instrumental part. We lay too much weight upon the formality of treaties and compacts. We do not act much more wisely when we trust to the interests of men as guarantees of their engagements. The interests frequently tear to pieces the engagements; and the passions trample upon both. Entirely to trust to either, is to disregard our own safety, or not to know mankind. Men are not tied to one another by papers and seals. They are led to associate by resemblances, by conformities, by sympathies. It is with nations as with individuals. Nothing is so strong as a tie of amity between nation and nation as correspondence in laws, customs, manners and habits of life. They have more than the force of treaties in themselves. They are obligations written in the heart. They approximate men to men, without their knowledge, and sometimes against their intentions.

²¹⁹ *Regicide* I p. 249. On reasoning without prejudice see *Appeal* p. 211, *Reflections* p. 183. About man's duty becoming part of his nature by way of prejudice see D. Cameron, *The social thought of Rousseau and Burke* (Toronto, University of Toronto Press, 1973) pp. 128-129.

The secret, unseen but irrefragable bond of habitual intercourse, holds them together, even when their perverse and litigious nature sets them to equivocate, scuffle, and fight about the terms of their written obligations.

For our purposes the most important aspect of this interpretation of human society is Burke's remark that the social connections between men, the "irrefragable bond", are made and maintained "without their knowledge, and sometimes against their intentions". In other words, that political societies are created and preserved not out of men's conscious deliberations but by the unknown, perhaps unknowable qualities of men's sociable nature.²²⁰

(iv) The "elaborate contrivance": complexity and imperfection – For Burke, the consequence of human nature, of the manner in which minds, feelings and appetites effected actions, was an inevitable complexity of social and political affairs. In the *Reflections* he proposed that,

[t]he nature of man is intricate; the objects of society are those of the greatest possible complexity; and therefore no simple disposition or direction of power can be suitable either to man's nature, or to the quality of his affairs. When I hear the simplicity of contrivance aimed at and boasted of in any new political constitutions, I am at no loss to decide that the artificers are grossly ignorant of their trade, or totally negligent of their duty. The simple governments are fundamentally defective, to say no worst of them.²²¹

With the dichotomy of complex versus simple government, Burke was obviously offering his view of government as a complex structure alternative to the natural rights theories which upheld the virtues of political simplicity. Several radical writers of the period, recognizing the import of his view, attacked Burke exactly on this point, censured the political complications he was defending as harmful, and expressed confidence at the coming victory of

²²⁰ *Regicide* I p. 247.

²²¹ *Reflections* pp. 152-153. See also the similar argument in *Duration* p. 591.

“the great simplicity of nature applied to the organization of society”. Burke connected this the approach to the attempts to claim “primitive rights of men” in actual society. He stressed that its success could only result in a simple and primitive political system, devoid of all the benefits of the European states of his time, indeed of civilization. He could hardly believe anyone would really desire such an outcome.²²²

Burke saw political societies as the end result of a long, intricate and extremely arduous process; a process that was brought about by many different, unforeseeable and uncontrollable elements; one that unfolded differently in each case and place, modifying human nature according to particular circumstances, and overcame great problems, before individuals could be formed into “a mass, which has a true politick personality”. The inherent complexity of human nature and society, required that the political management of his affairs be a complex endeavor as well.²²³

Burke regarded the “complex state of our constitution” as a defining quality of Britain as a “free country”. To allow the variegated, sometimes conflicting, purposes of men and their societies was to accept that these could not be handled in a simple manner. Some of these purposes were fulfilled by a balance between the powers of government. This alone was an endeavor difficult enough to sustain, for a “constitution made up of *balanced powers*, must ever be a critical thing”. But balance of powers and roles in government was not nearly enough, for all kinds of “wide-spread interests must be *considered*; must be *compared*; must be *reconciled* if possible”. Such functions, which Burke held to be completely out of the scope of a balance of powers, were carried out by the mixed nature of a government – its combining of monarchical, aristocratic and democratic elements. The point of mixed

²²² *Reflections* pp. 152-153. For examples of radicals proposing simple government see Barlow *Advice* p. 267; Lofft *Remarks* p. 293.

²²³ *Regicide* I p. 247; *Appeal* p. 211.

government was to deliver a balance of principles, in the same way a balanced constitution was supposed to deliver a balance of powers. The different elements mixed in government represented different principles, which were all necessary for good government, and “[t]he whole scheme of our mixed constitution is to prevent any one of its principles from being carried as far, as taken by itself, and theoretically, it would go”. Hence, in order to avoid “the perfections of extreme[s?]”, all the several parts of British government were constituted not only to fulfill the particular end of each, but also “each to limit and controul the others”. Burke was aware of the accusations about the constitution being a cumbersome and unyielding mechanism, in which the main balance achieved was that of immobility. Not denying this tendency, and the possible consequence of it creating a standstill, he regarded gridlock as preferable to unconstrained rule. But he observed that in practice the danger of immobility was dispelled by the “perpetual treaty and compromise going on” within British government, sometimes openly sometimes less so.²²⁴

Another characteristic of Britain’s complex constitution, perhaps the most important, was its intricacy. Burke asserted that “the machine of a free constitution is no *simple* thing; but as *intricate* and as *delicate*, as it is valuable”. This intricacy meant that no power or part in the constitution was tidily and perfectly delineated. There was no separate legislative or judicial power there was no completely democratic or aristocratic estate of parliament. As a result of the many affinities and connections inside it, there was a high degree of cooperation and interdependence between the various components of the body politic so that “all these parts of our Constitution, whilst they are balanced as opposing interests, are also connected as friends; otherwise nothing but confusion could be the result of such a Complex Constitution”.

²²⁴ *Appeal* pp. 258-260.

Consequently, in a system as the British one, a total separation of the parts could be called for only by those who wished for “the common destruction of the whole, and of all its parts”. Attempts to replace such a system with a simple structure effecting “the abstract and unlimited perfection of power in the popular party” would have resulted only in the political destruction they had wrought when implemented in revolutionary France.²²⁵

Burke believed that the great complexity of a constitution such as Britain’s made it very hard to understand. It was beyond the comprehension even of “[r]ational and experienced men” who could distinguish between “true and false liberty”, even of most great minds. Only those few who were “profoundly studied” in matters of state (he mentioned Montesquieu as one), could verily comprehend “the elaborate contrivance of a fabrick fitted to unite private and public liberty with publick force, with order, with peace, with justice, and above all, with the institutions formed for bestowing permanence and stability through ages, upon this invaluable whole”.²²⁶

Such imperfect knowledge of “the elaborate contrivance” which was a successful constitution, meant, for Burke, that political theories too could not be perfect. The limits on political knowledge and the uncertainty it produced in matters of state were an important theme in Burke’s thought on these issues. He remarked that

[w]e are not yet acquainted with the laws which necessarily influence the stability of that kind of work made by that kind of

²²⁵ *Appeal* pp. 119-120, 258-260, 263-264; *Observations* pp. 440-442; *Reflections* 229-230. In an early fragment, composed around 1757, Burke noted that, in uncultivated countries, “society is not close nor intricate”. See *Abridgment* p. 349. See also Burke’s speech of 14 June 1784 where he asserted that Britain’s was not a government of balances PH vol. XXIV p. 948.). It should be noted that censure of the idea of a government of balances was a major theme in contemporary criticism of Locke’s political theory. High Tories of the late 18th century were prominent critics of Locke’s idea of a government of balances (employing arguments by Charles Leslie from the beginning of the century), but mainstream loyalists also voiced their opposition. See William White, *A dissertation on government. With the balance considered; or a free inquiry into the nature of the British constitution, and the probable effect of a parliamentary reform* (1792) PW vol. VII pp. 185-214. See also discussion in Gunn *Beyond* pp. 187-188.

²²⁶ *Appeal* pp. 263-264.

agent. There is not in the physical order (with which they do not appear to hold any assignable connexion) a distinct cause by which any of those fabricks must necessarily grow, flourish, or decay; nor, in my opinion, does the moral world produce any thing more determinate on that subject, than might serve as an amusement (liberal indeed, and ingenious, but still only an amusement) for speculative men. I doubt whether the history of mankind is yet compleat enough, if ever it can be so, to furnish grounds for a sure theory on the internal causes which necessarily affect the fortune of a State. I am far from denying the operation of such causes: But they are infinitely uncertain, and much more obscure, and much more difficult to trace, than the foreign causes that tend to raise, to depress, and sometimes to overwhelm a community.²²⁷

Since complete knowledge of either the material ("physical") or the abstract ("moral") causes and effects which create and maintain a state was precluded, it followed that true political theory had to accept itself as intrinsically limited and imperfect. This argument, in different guises a recurring theme in Burke's writings, seems to have been directed to a great measure against the influence of Locke's ideas on political reform. Though addressing different circumstances (such as political reform in England or revolution in France), and though different political theories may also be (and probably were) censured by such attacks, the common concern of them all was to rebut erroneous renderings of Britain's constitution, among which Locke's was the principal one. Lacking explicit words by Burke one way or the other, circumstantial and textual references indicate the probable Lockean target. As already mentioned Burke had characterized the great majority of those who advocated constitutional reform in the 1780s – many among whom overtly employed Locke's name – as proponents of rights of men theories. Even more indicative of the Lockeans and Locke himself seem to be Burke's recurring negative allusions to radical assertions of perfect political rights. From the 1756 *Vindication's* ridicule of calls for men to bring themselves into natural,

²²⁷ *Regicide I* pp. 188-189.

“perfect Liberty”, to the 1791 *Appeal*’s assertion that man is only “perfectly in his natural state” in artificial, civil society, Burke persistently employed the term “perfect” when opposing his view that men and their affairs could be understood only in the specific context of particular societies and their history to the Lockean a-social and a-historical view of man evident in Locke’s fundamental assertion that men are naturally in a “*State of Perfect Freedom*”.²²⁸ But, Burke’s marked aversion to discussions of the foundations of the polity was not limited only to what he saw as simplistic or perfectionist approaches. He certainly loathed such approaches, and regarded them as plainly counter-productive. However, in truth, he considered all inquiries into the polity’s foundations as inherently fraught with dangers, and recommended that, as much as possible, a protective veil should be drawn over such matters. His pronouncements in this regard were remarkably consistent down the years: from his assertion in the 1777 *Letter to the Sheriffs of Bristol*, about “one sure symptom of an ill conducted state” being the propensity of the people to resort to theories of government; through his claim in 1780, when addressing the proposal for shortening the duration of parliament, that “[i]t is always to be lamented, when men are driven to search into the foundations of the Commonwealth”; through his observation of 1782, opposing the proposed change in parliamentary representation, that it is “never prudent or safe to be meddling with the fundamental principles and ancient tried usages” of the constitution; through his remark of 1790 in the *Reflections* that in the political settlement of 1688, the two houses of parliament “threw a politic, well wrought veil” over every circumstance tending to weaken the rights they wished to perpetuate, or furnishing precedence for future departures; to the

²²⁸ For Burke’s treatment of “perfect” rights see *Vindication* p. 183; *Appeal* pp. 217-219; and also *Duration* p. 589; *Representation* p. 93; *Reflections* p. 145. Compare to ST sec. 4. See also ST sec. 7, for the state of nature being one of “perfect equality”. The other main political theory invoked by reformers, that of the “originalist” interpretation of the Ancient Constitution, was not characterized by a claim to simplicity, and neither did it claim perfect rights - though it asserted the constitution as a whole to be politically perfect, a view Burke shared.

lament in his 1795 letter to William Elliot of the fateful consequences to be expected after “the veil was torn” from the “sanctuary of government” by revolutionary philosophy.²²⁹

Burke attributed the danger of delving into the political origins of a commonwealth to the fragility intrinsic to political authority’s theoretical roots in a complex society. Since successful political societies developed out of many actual compromises and adjustments, they could not (and should not) be simply reduced to theory. All alterations of the political frame, even necessary ones, undermined its authority by revealing its theoretical problems - while exposing it to unforeseen practical dangers, because the actual effects of alterations could not be ascertained beforehand. He argued that “it is certainly necessary to resort to the theory of your Government, whenever you propose any alteration in the frame of it, whether that alteration means the revival of some former antiquated and forsaken Constitution of State, or the introduction of some new improvement in the Commonwealth”. But such resorting to the theory of government meant tinkering with the extremely complicated machine that was inherently imperfect, for

[t]hat man thinks much too highly, and that therefore he thinks weakly and delusively, of any contrivance of human wisdom, who believes, that it can make any sort of approach to perfection. There is not[,] there never was[,] a principle of government under heaven, that does not in the very pursuit of the good it proposes, naturally and inevitably lead into some inconveniences, which makes it absolutely necessary to counterwork and weaken the application of that principle itself; and to abandon something of the extent of the advantage you had in View by it, in order to prevent also the

²²⁹ *Sheriffs* p. 319; *Duration* p. 589; *Representation* p. 93; *Reflections* pp. 102-103; *Elliot* pp. 39-40. Some radical authors addressed – negatively – the idea that of the truth of government was hidden. See Wollstonecraft *Vindication* p. 20. See also Paine *Rights* p. 181; Towers *Thoughts* pp. 116-117.

inconveniences, which have arisen from the Instrument of all the good you had in View.²³⁰

Moreover, delving into origins of government or of particular political institutions or titles might reveal those to be not merely theoretically imperfect, but actually and completely iniquitous. Such were, Burke indicated, the origins of many states (including England, if its government was instituted at the Norman conquest, as many argued), religious establishments (including the Anglican Church, founded on the objectionable decrees of the “monster” Henry VIII, and pillage of monastic property) and prominent aristocratic dynasties (such as the Dukes of Bedford). Indeed the whole of the *Letter to a noble Lord* (1796) was a warning against what he regarded as imprudent delving into this matter by some aristocratic radicals.²³¹

This attitude was in plain contradiction to the whole premise of Locke’s political thought. Indeed Burke’s finding essential fault in such searching into the origins of the commonwealth implies a rejection of the whole purpose explicitly stated by the sub-title to Locke’s *Second treatise: an essay concerning the true original, extent, and end of civil government*. In short, Burke’s position about the theoretical untidiness of government’s origins meant that the actual political practice of a constitution, such as Britain’s, necessitated the employment of measures that could not conform to theoretically perfect principles. On one occasion Burke illustrated this tension by observing that “[t]o govern according to the Sense and agreeably to the interests of the People is a great and glorious Object of Government. This Object cannot be obtained but through the Medium of popular Election; and Popular Election is a mighty Evil”. Thus, when men were “driven to search into the

²³⁰ *Duration* pp. 589-590.

²³¹ *Noble* pp.165-170.

foundations of the Commonwealth", they exposed practices that, though practically necessary, were theoretically at fault.²³²

In effect Burke held that the simplistic and perfectionist attitude to politics destabilized all governments, and was particularly incompatible with the complex and imperfect constitutions that delivered good government. He warned against attempts to introduce the "foreign matter" of French style or ideas into the British system, in which all parts fitted each other; the only acceptable method by which to maintain such a system was for it to rely on its own "matter", its own history and circumstances. Consequently, any kind of peaceful attitude and relations between revolutionary France and "the Jacobins of England" imperiled the British political system, for

[i]t is but too plain, that our constitution cannot exist with such a communication. Our humanity, our manners, our morals, our religion, cannot stand with such a communication: the constitution is made by those things, and for those things: without them it cannot exist; and without them it is no matter whether it exists or not.²³³

The manners, religion or property of a state were not merely the things which government was designed to protect (such as they were in Locke), but to a great degree its foundations. In what may be described as a mutually supporting relation, Burke's political order was in great measure made by the very things it was designed to protect.

These considerations lead back to the nature of political authority and opinion, discussed above. Burke, as already seen, held that in complex polities, authority rested on a mix of opinion, habits and sentiments. But if opinion was separated from its companions, and employed directly to scrutinize authority and its origins, what resulted was a spectacle of theoretical imperfection, which only served to undermine existing

²³² *Duration* pp. 589-590.

²³³ *Appeal* pp. 258-260, *Fitzwilliam* p. 107.

governments. In such a situation, accepting ideas which held authority to be based on perfect rights could only spell disaster. This was also why Burke, although claiming that the British constitution stood on some fundamental principles, balked at attempts to isolate and address these separately from the whole. He addressed the whole as “perfect”, and regarded attempts to delve into its origins as a serious danger to the authority of that whole, insisting that the constitution’s authority must rest on prescription and presumption. Government was “a practical thing, made for the happiness of mankind, and not to furnish out a spectacle of uniformity, to gratify the schemes of visionary politicians”. He identified such a conflict as existing between the “practical” benefits of the British constitution and the calls from radical supporters of political reform to change the constitution by tearing the “veil”, and attempting to impose on it a perfect “uniformity” based on natural rights.²³⁴

Burke accused the Lockean supporters of constitutional reform of being doubly wrong, first when they assumed their ability to identify and understand these principles completely, and second when they believed the whole constitution of consisting simply of the sum of these principles. With time the tone of his condemnations changed. His relatively mild reproach of 1780 towards the Corps of Schemers “who in reality, and at bottom, mean little more than to indulge themselves with Speculations”, hardened in the next decade, with the actual attempts to bring about changes in a representation which he deemed “as nearly perfect” as the human imperfections “will suffer it to be”, in order to subject it to “captious criticism and rash experiment”. But it became outright denunciation in the 1790s, as he found among the English “Speculators” those who regarded the events and ideas of revolutionary France as encouragement of their political approach. In

²³⁴ *Representation* p. 96, *Sheriffs* p. 317. See also *Reflections* pp. 147-148.

1795 criticizing a pamphlet by Baron Auckland (William Eden), a relatively moderate Whig, who had attempted to encourage negotiations with the Directory by suggesting that the new French constitution was “a mixed Oligarchy” and as such essentially similar to the British system, Burke wrote:

[b]y this easy manner of treating the most difficult of all subjects, the Constitution for a great Kingdom, and by letting loose an opinion, that they may be made by any adventurers in speculation in a small given time and for any Country, all the ties, which, whether of reason or prejudice, attach mankind to their old, habitual, domestic Governments, are not a little loosened: all communion, which the similarity of the basis has produced between all the Governments that compose what we call the Christian World and the Republic of Europe, would be dissolved.²³⁵

He added that, as such “hazarded speculations” can only result in distancing Britain from its traditional principles while becoming closer to France’s, “in proportion as we recede from the ancient system of Europe, we approach to that connection which alone can remain to us, a close alliance with the new discovered moral and political world in France”.²³⁶

It was in revolutionary France that Burke found actual confirmation for his view about the danger of destroying traditional authority by unsupported opinion. He pointed to the revolutionaries’ predicament resulting from their own principles – having torn the veil of authority, they eventually realized the resulting instability of such power, and by the time of the Directory, frantically attempted to reinstate the trappings of authority. Since dissolving political authority was simple, while recreating it not at all, and since the revolutionaries’ ideas ran completely counter to established authority, the result of such a change of approach was comical. Burke derided the “new

²³⁵ *Fitzwilliam* p. 83. For Locke’s definition of oligarchy see ST sec. 132. Auckland’s pamphlet, *Some remarks on the apparent circumstances of the war in the fourth week of October 1795* (1795), directly caused Burke to draft what would later become his *Letter to Earl Fitzwilliam*. See COR vol. VIII pp. 333-335.

²³⁶ *Fitzwilliam* p. 83.

Habit of the Directory", its members attempting to cover their insolence by being "powdered and perfumed and ribbanded and sashed and plumed"; they were, he wrote, like the "Senate" that appeared on the stage of the theater, always causing laughter because the audience recognized it as composed of the "revolutionary scene-shifters", those who had performed the vilest roles in the play – "the very scum and refuse of the Theatre".²³⁷

Having thus examined the four themes which formed the framework for Burke's political outlook, I will now attempt to study how he envisioned the structure and function of the political society which would conform to this framework.

(v) The "materials of the fabrick": the elements of political society – What Burke described as "old, habitual, domestic Governments" constituted a framework of established opinions and sentiments, in which the resort to brute force was minimized, and such force as necessary was made gentler. In short, "[w]ithout force, or opposition, it subdued the fierceness of pride and power".²³⁸

The "modern" political theories were so destructive not because of some specific idea, but primarily because of the premises on which the theories were built. Since they assumed from the outset an "original" man without history or opinions, such a man was defined by the only things he had, mental will and physical power. Thus terms, like consent and rights or reason and nature, became merely euphemisms for will and power. Will and force would come to dominate politics. The traditional political approach, with all

²³⁷ *Fitzwilliam* pp. 72-73. See also *Regicide* I pp. 202-203, where the extravagant costumes of revolutionary ministers were likened to "a theatrical costume of the opera". Burke was pointing to the new and elaborate uniforms decreed by the directory regime for the several ranks of state officials. The description in *Fitzwilliam* of the "plumed" directory (also described in p. 74 as "*feathered scoundrels*") appears to me an oblique repartee to those, like Paine, who had written of Burke's concern for the fate of the French royal family that he "pities the plumage, but forgets the dying bird". It was the revolutionaries who had now "plumed" themselves. See Paine *Rights* p. 72.

²³⁸ *Representation* p. 108; *Reflections* p. 170.

its complexity and imperfection, intertwined principles and powers so completely that they could not be separated. Even the most formidable and intractable power, popular will, became enmeshed in a system where it had to contend for influence with religion, property and habits, to determine the course taken by society and government. The institutionalization of established opinions, creating a religious establishment and various corporate expressions of prejudice, aristocracy, property and so on, lent additional support to ideas that in a more simple system would have been easily swept away.

Burke believed such a political order to have the potential to be both moral and prosperous. He claimed this had been evidently the case in European states "the day before the revolution in France" when, there was "so beautiful and so august a spectacle presented to the moral eye" as never before in history. Ironically, the very success of this system, the long term prosperity and stability it supplied, assisted the twin developments, which rose to destroy it. The first one was a change in the attitude to politics, which Burke described as sociologically driven. Among the aristocracy, the primary guardians of the traditional order, "laxity and debility" spread, resulting in facile attitudes to politics. Among the "men of letters", the spectacle of an increasing weakness of the old order fostered "bold spirits and dark designs" – that is, ambition for political power. The consequences of such changing attitudes, were soon manifest. "Knowledge" which had been until then guarded and controlled, became "diffused, weakened and perverted"; "General wealth" loosened morals and vigilance while increasing presumption; "Men of talent" began to find their portions of public prosperity "not equal to their estimate (or perhaps to the public estimate) of their own worth". In other words, while the aristocracies displayed a mix of indolence and pride, the intellectuals reacted with frustration and ambition.

But it was the second development, one of ideas, which was held by Burke to be the crucial element in the challenge to the traditional order. This was the emergence of a false philosophy, which by upholding the preeminence of original nature and simplicity undermined the legitimacy of the characteristic artifices and complications of the traditional order, while it justified the ambitions of intellectuals who criticized that order. The two developments mutually complemented each other so that when the "false philosophy passed from academies into courts", even the rulers of the old order became infected with theories that could only lead to their ruin. Though Burke held this process to have gone farthest in France, bringing on the revolution, he believed it to have been a general phenomenon, relevant everywhere in Europe, including Britain. According to Burke the "false philosophy" gradually undermined the established opinions on which the old order rested, eventually effecting a breach "in the whole order of things and in every country".

This description is important because it supplies us with a detailed picture of his view of what those opinions and their mutual relations were. First, he claimed, "Religion, that held the materials of the fabrick together" was systematically loosened; then all other accepted opinions "under the name of prejudices" inevitably fell along with it; eventually "Property" too, now "undefended by principles", instead of a pillar upholding the old order, became a burden on it. Instead of extending status and power property became a lure for all those who would gain it if the old order fell. The undermining of religion, prejudices and property, left authority as the only remaining element of order in the state. But, authority could not stand "on authority alone", it needed "some other support than the poise of its own gravity". Without the accepted opinions to sustain it, authority was nothing but an empty shell, standing precariously and attacked on all sides by "the infernal energies" of ambitious talent prompted by vice and disorder. Before

long, it would also fall. Thus the structure of Burke's traditional political and social edifice was laid down: established religion was the central pillar on which rested the whole; prejudices and property were two additional pillars lending it support; authority, the imposing facade of civil society, encased all others, but could not stand for long without them.²³⁹

As has been observed in his account of the spread of the "false philosophy", Burke held aristocracy to have a crucial role in the function and preservation of political society. By dereliction of its duty as the guardian of traditional political society, aristocracy had made the spread of false philosophy possible; if it did not resume its role, the traditional political order was doomed. I believe that understanding why Burke believed aristocracy fulfilled such an important political role in upholding the authority of the traditional political system, will go a long way towards explaining the manner in which such a system functioned.

It appears that, as long as they were in place, the established opinions which upheld the authority of traditional government, performed two vital functions: they conferred on those holding public office an authority independent of their personal qualities (which, Burke implied, were many times lacking); and they bestowed on political authority an awe of sacredness. Thus government gained authority without resorting to the use of force. When modern philosophy tore the "veil" from government, established opinions were weakened, and they ceased to function as supports to authority. Governments had to turn elsewhere to prop up their authority, or succumb to anarchy. Burke agreed that, "when once things are gone out of their ordinary course, it is by acts out of the ordinary course they can alone be re-established". But he absolutely rejected suggestions that the right remedy to the weakening of established opinions, was the one to which the

²³⁹ *Reflections* pp. 186-187; *Elliot* pp. 36-40. In *Observations* pp. 434-435 he terms them "the props of Society".

revolutionaries had resorted in France – turning to rude power as the only prop for order and authority. Such remedy had evidently been raised as a solution to the growing tide of revolution in England and throughout Europe. Burke asserted that he would be not counted among those who would “evoke the powers of hell to rectify the disorders of the earth”. The desirable solution of government’s predicament was to recruit “the impulses of individuals at once to the aid and to the control of authority”, which for Burke, meant an appeal to political virtue. Such virtue offered “personal qualities” to support the weakened traditional authority of office holders, and showed something “not only venerable, but dreadful” in “the sanctuary of government” to support its weakened sacredness. Apparently envisaging the action of strong, prominent personalities, who while preserving the traditional framework of the constitution, could win widespread support, and receive emergency governmental powers, he described such action as the “true republican spirit”, by which monarchies could be rescued “from the imbecility of courts and the madness of the crowd”.²⁴⁰

Two points bear consideration here. The first is that political virtue was implicitly but clearly associated with aristocracy: while monarchical and popular politics were characterized respectively by “imbecility” and “madness”, the commendation of “true republican spirit”, would, to Burke’s readers, have implied contemporary aristocratic republics, like the Netherlands or Venice, as well as the classic example of the aristocratically-led Roman republic. The second point, is that although he balked at resorting to brute force to restore order and authority, Burke indicated that the spirit and personal qualities of politically virtuous leaders should also preserve a menacing streak, evoking the feeling that government had something

²⁴⁰ Elliot pp. 39-42. Burke acknowledged such a remedy to be a dangerous concentration of power, but regarded it as a bearable evil, as long as this was understood as exceptional, and the constitutional framework was maintained. See also his discussion of such a prospect for a restored France in *Remarks* pp. 491-492.

“dreadful” too within it. This view was entirely in line with Burke’s theory of political power, which, as will be remembered, held the authority of institutions to retain some element of primal fear from physical strength (in the *Sublime* he had used the expression “*dread majesty*”). Indeed in his analysis of the Europe-wide weakness of traditional regimes he was witnessing, Burke directly traced the weakness to their loss of all capacity to intimidate.²⁴¹

The same position informed Burke’s attacks on the British government’s failure to secure the conviction of radicals in successive trials of the early 1790s. He derided the government’s praise of judicial moderation and leniency, as merely masking its weakness and impotence. Burke observed that after about a century in which it had scarcely ever been defeated in court, government had suddenly come to suffer numerous reverses within a few years. He believed the problem was not one of laws (which had not changed), but of a loss of nerve and self-confidence, which was spreading around so that by “a connexion easily felt, and not impossible to be traced to it’s cause, all the parts of the State have their correspondence and consent”. For Burke, “[l]iving law, full of reason, and of equity and justice, (as it is, or it should not exist) ought to be awful too”, or it would “excite nothing but contempt”, so that only resolve and sense of purpose, indicating the government’s willingness to be awful if necessary, could change the direction of things. In short, Burke held that political authority should avoid either “evoking the powers of hell”, that is relying only on force, or drifting into “laxity and debility”, that is abandoning all willingness to use force. Instead, it should be based mainly on established opinions, but keep the capability to arouse fear, if needed.²⁴²

²⁴¹ *Sublime* pp. 236-239.

²⁴² *Regicide* I p.198. Burke also remarked in this context that “the law is clear, but it is a dead letter. Dead and putrid, it is insufficient to save the State, but potent to infect, and to kill”.

Burke's appeal to political virtue in a time of crisis raises the question of why he did not place it as one of the regular components of political authority. He never offered an explicit answer to this question, but I believe the probable reason may be ascertained from his regarding virtue as requiring extraordinary effort. Something that could be summoned and exerted in times of emergency, and even then only by a few great men was by definition an exceptional characteristic. It was a trait too individual, uneven and unsustainable to be of regular use to civil society; it was unsuitable for a system seeking long-term stability and structure. There are also indications that Burke held the belief (shared with other thinkers among whom were Montesquieu and Rousseau) that the exertion of political virtue was limited by the size of a state. This seemed to be the import of his claim in the *Reflections*, that small states were better suited to be republics, while large ones were better governed as monarchies. Virtue was commonly identified at that time with republican regimes, as in Burke's own description of the political virtue needed to face the crisis as "republican spirit". However the most telling example of Burke's position towards political virtue is in his remark in the *Letter to William Elliot* (1795) about the heroes and patriots of old, which "knowing no mode of policy but religion and virtue", would not suffer "Monarchs or senates or popular Assemblies, under pretences of dignity, or authority, or freedom, to shake off those moral riders which reason has appointed to govern every sort of rude power". Virtue was assigned here a rank equivalent to that of religion in directing political power. But Burke was discussing the ancient polities and not those of his own days. Virtue was extolled as a quality, while at the same time being associated with the ancient republican spirit. To every educated reader of the time, this would have pointed to the copious political literature of the 18th century, especially of the British school, which had insisted that modern states were better than ancient ones because manners had replaced coarse virtue (as Burke himself put it,

“made power gentle, and obedience liberal”). Thus virtue was depicted as better suited to sterner and coarser times, in which politics was more about “rude power”. Perhaps virtue was to be episodically resurrected in circumstances – like revolutionary times – when there was a resurgence of “rude power”. But in the main, political virtue was too extraordinary an element to become a permanent fixture of modern governments, particularly in large states such as Britain. This approach also accounted for Burke’s placing of religion as the remaining central pillar that “held the materials of the fabrick together” in the political framework.²⁴³

If virtue was to Burke a desirable element in politics, but one that was not necessary in the normal course of things, the role of property he saw as indispensable. Property, especially (but not solely) landed property, was essential to the political function of aristocracy in traditional governments, and consequently to the existence and survival of such governments. This view by Burke has an important implication for his idea of the relationship between property and government, and, accordingly, to the political theory of Locke. It has often been claimed by scholars, among them F.P. Lock, J.R. Dinwiddy and F. Canavan, that Burke agreed with Locke in believing government to exist in order to protect property. But this claim does not stand up to scrutiny. When the fundamental relationship between property and civil society in Burke’s thought is studied, a very different picture emerges, one that positions him as completely opposed to Locke’s assertion that “Government has no other end but the preservation of Property”. In an immediate, practical sense, Burke certainly saw government as the protector of property, but such a stance is shared by every thinker who ever defended ordered government. To hold Locke’s view, Burke would have had to regard property as a natural attribute (in effect a right) of men, preceding

²⁴³ *Reflections* pp. 170-172, 228-229; *Elliot* pp. 41-42. See also Pocock *Reflections* p. xxxii.

government in both time and importance; and to regard government as existing solely (or at least principally) for the protection of natural property. Burke nowhere accepted the proposition that property was more of a natural human attribute than government, and that the existence of the latter was solely or even primarily for the protection of the former. Instead he consistently described a complex relationship in which property and government were mutually supportive elements of a sociopolitical whole. He repeatedly pointed out how prescription and possession legitimized the title to property which had been attained unlawfully – a legitimization which could not be accepted by those who regarded property as a natural attribute. More than this, it can be shown that Burke actually turned Locke's theory on its head, when he indicated that, far from being the end of government, property was actually a tool (like religion and prejudice) necessary for the preservation of government.²⁴⁴

Among the many places where Burke treated the relation between property and government as one of mutual support, it is worthwhile to look at a passage often referred to in scholarly claims about Burke's alleged affinity to Locke's theory, where Burke claimed: "Prescription is the most solid of all titles, not only to property, but, which is to secure that property, to Government. They harmonize with each other, and give mutual aid to one another". This passage, while certainly describing government as a protector of property, did not confine their relationship to this Lockean end, pointing instead to a more complex interplay in which they (together with prescription) harmonize, and reciprocate "mutual aid". Moreover, Burke's

²⁴⁴ For Locke's position see ST sec. 94, 124. For the claim that Burke agrees with Locke see Lock *Burke's* pp. 80-81; Dinwiddy "James Mill" p. 263; Canavan *Economy* pp. 70-71. For Burke's enumerating "solidity of property" as one among a whole list of various other political elements of the state, see *Reflections* pp. 90-91.

claim in the passage, that prescription was the most solid title to property, was directly contrary to Locke's view.²⁴⁵

In other places Burke placed the stress far more on property being the tool and defender of government, rather than its end. He gave an example of this view in a passage treating the economic difficulties caused by England's continuing war against revolutionary France. He pointed out that

[i]f wealth is the obedient and laborious slave of virtue and of publick honour, then wealth is in it's place, and has it's use: But if this order is changed, and hono[u]r is to be sacrificed to the conservation of riches, riches which have neither eyes nor hands, nor any thing truly vital in them, cannot long survive the being of their vivifying powers, their legitimate masters, and their potent protectors. If we command our wealth, we shall be rich and free: If our wealth commands us, we are poor indeed.

Although the term "wealth" was employed in this case, the import of the passage for the political role of property cannot be mistaken – not the end but the tool (indeed, the slave) of "public honour", property is to be commanded by government, to pursue other purposes.²⁴⁶

The view of property as a political instrument was even more pronounced when Burke treated its role in permitting and sustaining the constitutional role of the aristocracy. He was aware that natural rights theories depicted, often implicitly and sometimes explicitly, aristocracy as an unnatural and

²⁴⁵ *Representation* p. 96. Another passage that may look as showing affinity with Locke's position is one where Burke, pouring scorn on the latest declaration by French revolutionaries "in favour of property" noted that no traditional European government "either in its origin or its continuance" ever thought it necessary to make a declaration in favour of property, since "[t]he more recent ones were formed for its protection against former violations: the old ones consider the inviolability of property and their own existence as one and the same thing; and that a proclamation for its safety would be sounding an alarm on its dangers". But here too Burke does not point to government being one-sidedly subsidiary to property, but rather to an affinity that makes them both mutually dependent. See *Fitzwilliam* pp. 101-102. See also PH vol. XXX p. 555.

²⁴⁶ *Regicide* I p. 194. See also *Discontents* p. 268, and *Regicide* III pp. 374-375 (but the last is problematic, being an "editorial extension" by which Burke's executors compiled together materials of various provenance).

thus redundant human institution. His answer, styled in the language of natural rights theories, was that “[t]he state of civil society, which necessarily generates this aristocracy, is a state of nature”. In other words, civil society and aristocracy were both truly “natural” to men, unlike the spurious state of nature of the natural rights theories. Moreover, Burke indicated that one could not be had without the other, since hierarchy was something inevitable in any society. Consequently, the true political question concerning hierarchy was not how to justify its existence, but rather how to bring it to perform as beneficially as possible. Burke believed that an established, hereditary and land-based aristocracy, which was channeled by manners and opinions corollary to its character towards serving the interests of the whole was the best method to achieve that beneficial performance. He stressed that in places like America, where circumstances did not engender a hereditary and established aristocracy, there should be a deliberate effort to compensate for this lack, mainly by putting a greater stress on republican virtue, with all ensuing political uncertainties and hazards.²⁴⁷

But establishment and heredity were not enough, for property too had an important role in defining the political outlook of the aristocracy. That particular inclinations and views were appended to the type of property men owned was universally accepted. The conventional division was between financial (or “moneyed”) property, which was associated with activity and ambition on the one hand, and landed property, which was associated with sluggishness and inertia, on the other. In ascribing to this view Burke was not

²⁴⁷ *Appeal* pp. 210-211; *Quebec*, pp. 7-8, 33-34. About radical attitudes to aristocracy see for instance Wollstonecraft *Vindication* pp. 9-13, where hereditary property is deemed to have made its recipients into an “artificial monster”. Burke described such claims at length in the *Appeal* pp. 188-189, and also in *Reflections* p. 347, and *Noble* 166-167. In the latter work he noted the tendency of democratic and absolutist theories to converge on the alleged redundancy of aristocracy – in fact, attempting to hide these theories’ similar tyrannical aspirations, as was the case with Henry VIII’s enmity to “every thing that was *great and noble*”, finally leaving no liberty in the country.

exceptional, but he viewed the attributes pertaining to landed property as being politically beneficial. This view conflicted with Locke's theory, which regarded property as consisting almost wholly (99%, as he put it) of men's labors, thus implying a de-legitimization of those who enjoyed property without actively endeavoring to make it productive. To be sure, Locke, in accordance with his theory, expressed principled criticism, in the *Second treatise*, of property owners who did not contribute to labor, manufacture or trade, including idle and unproductive owners of landed property. For Burke, the slow but independent nature of the landed interest and population, and especially of country gentlemen "of liberal views and habits" was exactly their merit in that it extended a moderating influence on government, counterbalancing the active power of the moneyed and urban interest.²⁴⁸ Burke opposed neither the economic activities nor the political influence of the urban and financial interest, but he regarded it as politically destabilizing if left unbalanced by a strong landed interest. Though he commended (and, on his own farm, practiced) active improvement of agricultural production by landowners, Burke recognized that owners of landed property – especially of large estates – though many times less productive than others in strict economic terms, nevertheless made a significant contribution in political terms. They were bred in circumstances that enabled them to nurture personal virtue, discipline and learning, to devote themselves to public service and duty, and to regard as their goal the managing and directing the state in the interest of the whole. The men who accepted this role became for Burke not only an important part of political society, but in many ways its very essence. He proposed that "true natural aristocracy is not a separate

²⁴⁸ ST sec. 25-51 (chapter on property) and elsewhere; *Reflections* pp. 312-313. See also Ashcraft *Revolutionary* pp. 265-270 on Locke; Dreyer *Burke's* p. 70 on Burke. For a discussion of the balance of power between Landed and moneyed interests see R. Bourke, "Edmund Burke and enlightenment sociability: justice, honour and the principles of government" in *History of Political Thought* 21 (2000), pp. 651-653.

interest in the state, or separable from it. It is an essential part of any large body rightly constituted". More than this, true aristocracy was so much a vital element of the political nation that without it, in effect, "there is no nation". Burke did not delude himself to think that all aristocrats, or even most, adopted this model. His *Letter to a noble Lord* was a scathing criticism of those aristocrats who denied it. But he held that enough of them had embodied the model in the traditional European states. This had been, and still was, the case in England. In France, more than a hundred years of absolute monarchy had sapped the political vitality and role of the aristocracy, making revolution almost inevitable. But even there, the aristocracy always remained for him the best part of France, and its true hope for a better future. Consistent with this opinion, and with his assertion that without aristocracy there is "no nation", were Burke's repeated remarks to the effect that with so many "landed proprietors of France, ecclesiastical and civil" expelled by the revolution, the French body politic, did not reside any more in geographical France, but among the exiled.²⁴⁹

Because of the vital role of the landed aristocracy, the House of Lords was for Burke the institution at the core of Britain's constitution. It was not only part of a balanced and mixed constitution, but it best displayed the political intricacy which he deemed so essential – being part of the legislature, but having also judicative (as the court for impeachments) and executive powers (a number of Lords were ex-officio members of the government). It represented all of the established opinions which Burke identified as essential to beneficial political authority - not only prejudice and property as represented by the aristocratic members (referred to as the Lords temporal), but religion too with membership in it of all Bishops of the established church

²⁴⁹ *Appeal* pp. 217-218; *Remarks* 465-468. Burke explicitly warned that it was because in France "the whole of the power obtained by this revolution will settle in the towns" that the landed interest and population by their sluggishness and inertia will not be able to counter the noxious political developments he foresaw. See *Reflections* p. 311.

(referred to as Lords spiritual). For Burke, this last feature, a political role for established religion, was if anything too restricted. It is instructive to observe that the one significant reform (or rather restoration) in the constitution which he ever hinted that he might entertain, would have made it not less artificial but more. Some years before the French revolution, while discussing the British constitution, Burke had remarked that the "Convocation of Clergy had formerly been called and sat with nearly as much regularity to business as Parliament itself", and while it now convened for ceremonial purposes only, he noted it was still part of the constitution, and may one day be "called out into act and energy". He doubted then if circumstances would make such a revival desirable. But at the time of the French revolution he seemingly regarded such revival as more attractive, when he suggested that the existence of separate chambers for the nobility and clergy in the ancient constitution of France, was potentially more beneficial than the situation in the British system.²⁵⁰

It can be said that Burke regarded aristocracy as the most important component of a beneficial political system, because by its character, it wielded the political power that was farthest removed from natural force. Lacking the physical force of popular numbers or monarchical armies, aristocracy drew almost all its political significance from property and from prejudices such as hereditary titles. As the most artificial part of an artificial system, it was the most committed guardian of this system. Burke gave a detailed account of the manner in which the aristocracy carried out its role as political guardian, when he expounded his opposition to a reform of parliamentary representation. He observed that the main political organ of the aristocracy, "the House of Lords is by itself the feeblest part of the Constitution", which would not last a year without the support of its connections with the Crown

²⁵⁰ *Sheriffs* p. 316; *Assembly* pp. 329-330.

and the Commons. He meant that the Lords drew their political significance from the services they carried out for the crown (in the military the government and so on), and by their influence on many of the seats in the House of Commons (a considerable number of constituencies, where noble families held partial or decisive influence). It was for this reason that reform of parliamentary representation would “defeat the operation of property in Elections” and dissolve “the connexion and communication of interest” by which the two houses mutually supported each other. Events in France had illustrated the destructive effects of undermining the political role of aristocracy by arbitrary monarchy. Reform of parliamentary representation presented the same danger only from the popular side, because “artificial representation of the people being once discredited and overturned, all goes to pieces, and nothing but a plain *French* democracy or arbitrary monarchy can possibly exist”.²⁵¹

Although aristocracy was the most artificial element in the British constitution, the monarchical and popular elements were also constructed as artificial representation, and not as natural, “arbitrary” or “plain” political agents. Since the whole system was predicated on the “artificial representation of the people”, the fundamental opposition between it and the natural rights theories was not merely a philosophical distinction but one of direct practical import. The ideas of artificial representation and of politics as the realization of natural rights were mutually exclusive, and could not co-exist within one constitutional system. According to Burke, this was what had happened in France, and what might happen in England. The young men of England, exposed to the natural rights ideology reigning in France “will receive a taint in their religion, their morals and their politicks, which they will in a short time communicate to the whole kingdom”, that will start to

²⁵¹ *Observations* pp. 440-442.

corrode the whole frame of the British political system. "The Jacobin faction in England must grow in strength and audacity", while the ministry will not be able to find support in parliament. The House of Commons elected under such circumstances will lack the courage to arm the crown with extraordinary powers. The Lords who "ought naturally to be the pillars of the Crown", when their titles are made contemptible and their property invidious, will become merely so many trembling individuals seeking only to postpone the day of their ruin. Though Britain might still stumble along for some time, the decisive moment would have passed, its constitution dead if not yet buried. The decisive day, Burke indicated, would be the triumph of the natural rights ideology over that of artificial representation:

That day was, I fear, the fatal term of *local* patriotism. On that day, I fear, there was an end to that narrow scheme of relations called our country, with all its pride, its prejudices, and its partial affections. All the little quiet rivulets that watered an humble, a contracted, but not an unfruitful field, are to be lost in the waste expanse, and boundless barren ocean of the homicide philanthropy of France.²⁵²

Many years before the revolution in France, Burke had described the beneficial political system, one which restrained an "encroaching prerogative", an "overweening peerage", and a "tumultuous and giddy people", as intended to direct the consciousness of men towards a politically "safe mediocrity". The goal was that men, whatever their talents or circumstances will know and tell themselves:

I cannot elevate myself above a certain very limited point, so as to endanger my own fall, or the ruin of my Country. I know there is an order, that keeps things fast in their place; it is made to us, and we are made to it.

If this order was rejected, Burke believed that anything became possible, and men may put forward any proposition, "[w]hy not ask another wife, other

²⁵² Fitzwilliam pp. 114-117; *Regicide* III pp. 303-304.

children, another body, another mind ?". This placing of the foundation of political order in men's mind, was reiterated by Burke even more clearly some fifteen years later, deep into his anti-revolutionary struggle, when he claimed that

commonwealths are not physical but moral essences. They are artificial combinations; and in their proximate efficient cause, the arbitrary productions of the human mind".²⁵³

In both of the above quotes, the crucial point made was that political systems are essentially "arbitrary" products of men's mind. That is, they can be fashioned and directed whichever way men might wish. The fundamental political danger is then not from the arbitrary will of monarchs or masses, but from the arbitrary will of individuals. It is this will which must be addressed in order to erect and sustain a good government. To achieve that, it is not enough to make government "to" men, but men too must be "made to it". The anti-Lockean import of this approach is plain, as it denies the assumption on which the whole of Locke's political theory is predicated – that political societies should be fitted to men, not men to them. But the more significant political question raised by Burke's approach is that if men are not the sovereign rulers of political society (as they are made by Locke), but are rather "made" to them, who is the sovereign?

²⁵³ *Representation* pp. 104-105; *Regicide* I p. 188.

3. The “idea of continuity” – Burke’s idea of sovereignty

Edmund Burke’s concept of sovereignty is relatively neglected by scholarship, with little space, if any, usually devoted to this subject in either general studies of 18th century political ideas or particular research on him. However, even a cursory glance at this scholarship, reveals that in addition to a lack of clarity in the treatment of the subject, there is no agreement on its substance. There are widely differing views about the content and importance of Burke’s concept of sovereignty, and even claims that he did not have one. It also appears that current scholarship neither undertakes a comprehensive treatment nor recognizes the significant implications, of Burke’s actual concept of sovereignty. The limited character of scholarly treatment of Burke’s concept of sovereignty nonetheless presents widely differing views about the subject. F. O’Gorman, for instance, claims that Burke believed that in every particular polity “the location of sovereignty was unalterably settled” according to its peculiar arrangements. That is, in every state sovereignty might be situated in another place, and there is no general rule on this – except that this location of sovereignty might not be changed after having been established. “In the case of Britain, for example”, O’Gorman points out, sovereignty “was vested in the King and in parliament, an arrangement which no earthly power could alter or amend”.²⁵⁴

Another view is presented by H.T. Dickinson who, while addressing attitudes to the issue of sovereignty in relation to the American problem, writes that Burke and the Rockingham Whigs “were ready to endorse the *theoretical* sovereignty of Parliament” but urged, out of prudential considerations, that it should not be exercised in a manner that would unduly antagonize those

²⁵⁴ O’Gorman *Burke* p. 17. It is somewhat difficult to reconcile this description with O’Gorman’s assertion, on p. 16, that Burke derived from Locke “his fundamental assumptions about the British constitution”.

subject to it. In other words, Burke is held to have espoused the position that parliament was the sovereign, but preferred this sovereignty to be practiced prudentially.²⁵⁵

A third view on this matter is that of J. Conniff, who, while claiming that Burke, like most thinkers of his time, “accepted the doctrine of sovereignty; that is he believed that final political authority had to be vested somewhere”, disagrees with the assertions of both previous scholars as to the place this sovereignty was located. He states that Burke, “came close to holding that an administration was responsible to Parliament”, but finally “insisted that sovereignty lay with the king”. Conniff argues that Burke chose this path because he preferred the problems involved in the King’s sovereignty over the dangers of a popular sovereignty.²⁵⁶

The discrepancy between the above descriptions of Burke’s idea of sovereignty is evident – O’Gorman claims it as in King *and* in parliament, Dickinson only in parliament, and Conniff only in the King. This divergence may be explained by assuming that all three descriptions are attempts to paraphrase the political reality behind the formula, common in Burke’s day, of sovereignty being located in the institution of the “King-in-Parliament”. The meaning of this formula is that in the British state sovereignty is vested in an institutional structure of government, which included the King, the House of Lords and the House of Commons. However, whichever one of the above descriptions is preferred, their main shortcoming is not that they lack precision, but rather that they all are essentially incorrect in their reading of Burke’s concept of sovereignty. Although there are additional disagreements between the above scholars about Burke’s treatment of sovereignty (for example, O’Gorman holds that Burke had a general concept of sovereignty, while Dickinson and Conniff do not mention any such general concept), they

²⁵⁵ Dickinson *Liberty* p. 215.

²⁵⁶ Conniff *Useful* pp. 272-273, see also p. 93.

all share the view that assigns little importance to this concept. They contend that Burke's concept of sovereignty was one that was fairly common in the context of 18th century ideas, and was not a peculiar or significant element of his own political thought, the implication being that it should be regarded as an uninteresting subject.²⁵⁷

Of a wholly different nature is the treatment of Burke's concept of sovereignty by L. Strauss, F.A. Dreyer, P. Stanlis and J.G.A. Pocock. These scholars see the issue of sovereignty as significant in Burke's thought, and, accordingly, apportion to it more than a few cursory lines. But they too fall short of a full and comprehensive treatment of the subject.

Dreyer provides what is probably the most detailed and extensive treatment of Burke's ideas on sovereignty. His conclusion seems to be that Burke did not in fact have a theory of sovereignty. But this, Dreyer contends, was not because of a lack of interest in the subject, rather the opposite is suggested. Burke expressed a number of competing concepts of sovereignty and the state, and was unable or unwilling to decide between them. This amounts to a claim of basic incoherence in Burke's discussion of the state and its sovereignty. Dreyer indeed asserts that Burke used expediently three alternative and inconsistent identities to describe the state: "agency", "trust" and "corporation". Each of the three identities entails a completely different concept of sovereignty through its relationship with government. In the first government is the agent of the people (that is the people are actively sovereign), in the second the trustee for the people (that is the people are passively sovereign), in the third the corporation of the people (that is, the corporation is sovereign). The question of the consistency or lack of it in Burke's ideas on sovereignty and the state will be treated later. Here, it suffices to point out that Dreyer's analysis of Burke's idea on this subject is, I

²⁵⁷ See for example O'Gorman *Burke* p. 45, and Conniff *Useful* pp. 272-273.

believe, important in one aspect – its emphasize on the central role of the concept of corporation or body politic in Burke's writings on state and government (especially in his later years).²⁵⁸

A different view of Burke's concept of sovereignty is presented by Strauss, who writes that although Burke did not reject the view that "all authority has its ultimate origin in the people or that the sovereign is ultimately the people", denied political relevance to this sovereignty, holding it to be "dormant", while in practice "the convention, the original compact, i.e., the established constitution, is the highest authority". These quotes present a number of interesting observations, which might serve as starting point for a discussion of the many issues raised by them. Unfortunately, Strauss does not proceed to discuss them. His insights are consistently obscured by a combination of equivocal terms with the lack of sufficient exposition. An example of this problem is evident in the above quote, where Strauss treats the terms "convention", "original compact" and "established constitution" as synonymous. They are not evidently so, and if they should be regarded as identical, Strauss does not provide an explanation of why this is so.²⁵⁹

Stanlis claims straightforwardly that Burke's political philosophy is clearly consistent in its two principles "Political sovereignty based on Natural Law" and reverence for "the corporate character of the people". However, this clear-cut claim is not sufficiently explained, and what is even more problematic, it leaves unclear the relationship between the corporate people and natural law. Undoubtedly, Burke held that higher morality – or natural law – was at the origin of all legitimate government, but this might be also said of a number of vastly diverging thinkers (including Locke), and as such

²⁵⁸ Dreyer *Burke's* pp. 37-53 (especially pp. 51-53); another kind of claim about Burke having no comprehensive political philosophy is made by F.P. Lock, who writes that Burke had no political philosophy, instead he "knew what he stood for" and was willing to use whatever argument or vocabulary that would best convince his audience. See Lock *Burke's* p. 98.

²⁵⁹ Strauss *Natural* pp. 299-300.

does nothing to explain the place and function of sovereignty in the actual state. Asserting, as Stanlis does, that Burke believed in “a civil order founded upon constitutional law and the Natural Law”, creates the impression that these two systems of law are at some level identical, or at least complementary. But this impression is not followed through, and Stanlis confuses matters even more when he describes natural law as the supreme moral law, while maintaining the Constitutional law was the “ultimate *political* law” of any nation, and as such ultimately sovereign. Later, in his description of constitutional law, it proceeds “from the will of many generations of men and institutions, as regulated by corporate right reason”, and natural law does not appear. Thus the relations between the political and moral, and the way in which natural law is to be politically ascertained and effected, are all left unclear. It can also be argued that Stanlis’ view matches that of Strauss in that both regard the traditional constitution as the actual political sovereign; while they diverge on the source for this authority, with Strauss putting it in the people and Stanlis placing it in natural law.²⁶⁰

J.G.A. Pocock offers yet another view of Burke’s concept of sovereignty. His treatment of the subject is extensive, but not always clear. He proposes that Burke’s ideas on sovereignty should be understood in the context of two English political traditions that have been already discussed above: that of the “ancient constitution” (which I have termed “originalist”, and counted among its followers the younger Pitt) holding the English state and laws to be based on an ancient, immemorial and perfect constitution, and that of the “prescriptive conservatism” (which I have termed “historical”) holding that the ancient constitution should be accepted in its present form. According to Pocock, “prescriptive conservatism” was in effect an offshoot and alteration of the “ancient constitution” tradition, that had been outlined by the prominent

²⁶⁰ Stanlis *Burke* pp. 214, 245. See also p. 165. Stanlis does not propose (as did some thinkers, foremost among them John Selden) that constitutional law is an emanation of natural law.

17th century Lord Chief Justice Matthew Hale (perhaps following John Selden) and later perfected by Burke himself. Pocock's claim is that while for followers of both traditions the constitution was, essentially, the sovereign, they were divided between those who believed this sovereignty to be located in unchangeable and easily recognizable original principles, and those from whom sovereignty was vested in the constitution as a system of continuous transmission of institutions. The implication (for Pocock does not state this explicitly) that the working customary constitutional system should be seen as Burke's sovereign is certainly intriguing. However, Pocock does not sufficiently clarify the relations between the "ancient constitution" view and Burke's. At some points it appears that Burke's view completely denies that any original principles of the ancient constitution are traceable, in effect a functionalist (even relativist) view of the constitution; at other times it seems that Burke accepted some original principles for the constitution. Sentences produced by Pocock, like "the bedrock of ancient constitutionalism was being laid at the foundations of the prescriptive conservatism to which Burke would give classic expression a few years later", do not provide an explanation of the matter, and are not followed through by him.²⁶¹

It is evident then that current scholarship does not provide a satisfactory treatment of Burke's concept of sovereignty. Unlike some of these scholars, I will argue that Burke did hold a theory of sovereignty, that it was an essential element of his political thought, and that he held the sovereign in Britain to be neither the "King-in-Parliament", nor some of its component parts. Unlike other scholars, I will attempt to offer a comprehensive and coherent treatment of Burke's thought on the subject. I will also consider the relationship between Burke's concept of sovereignty and Locke's ideas, as I believe that the latter

²⁶¹ Pocock *Virtue* pp. 94, 278. In the latter passage Pocock's views are inferred, as he does not explicitly use the term sovereignty. See also the additional discussion of these ideas in Pocock *Ancient* pp. 170-175.

had a major role in prompting the articulation of the former, which was in many respects intended to confute Locke. I will present my argument in three stages, considering in turn: (i) Burke's view of Locke's idea of sovereignty, (ii) Burke's own idea of sovereignty and (iii) Burke's application of his view to particular polities and constitutions.

(i) The "edge of crimes": Burke and the Lockean concept of sovereignty -

Theories of sovereignty hold that every state must have a source of independent and supreme authority, and are concerned with the locus and function of the legitimate supreme dominion or authority in a state. As will be remembered, Burke always expressed a marked distaste for delving into questions pertaining to the origin and location of sovereignty, the "foundations of the Commonwealth", and for much of his political career preferred to treat questions relating to the actual function of sovereignty.²⁶² Nevertheless, from about 1780, and especially after the outbreak of the revolution in France, Burke was confronted with calls for constitutional alteration based on claims pertaining to the origin and location of sovereignty, and increasingly came to treat such questions. His attempts to repel the attacks on the British state and the old order of Europe brought him to address those ideas and terms, and to articulate his own views on the subject. Accordingly, the best starting point for an analysis of Burke's theory of sovereignty, is his portrayal of the theory against which he formulated his own. The theory he was opposing (though he touched upon it in one form or other in virtually all he wrote after 1790) was most comprehensively treated in two works that were composed with the explicit purpose of winning the hearts and minds of those Whigs who were hesitant about which way to turn

²⁶² *Duration* p. 589. O'Gorman states that "Burke was uninterested for the most part in such theoretical questions as the location and distribution of sovereignty in the state", but it seems that Burke's basic attitude was more of aversion than disinterest. See O'Gorman *Burke* p. 45. Another aspect of sovereignty pertains to relations between states, but will not be explored here.

in the impending split between the Foxite and Burkean wings of the party: the *Appeal from the new to the old Whigs* (1791) and the *Observations on the conduct of the minority* (1793).

In both works Burke subjected the ideas he ascribed to the Foxite Whigs to comprehensive and scathing criticism, as representative of theoretical principles completely divergent from the old Whig tradition. Since the *Appeal* and its anti-Lockean import has already been discussed above, it is now necessary to examine the *Observations*. This was a text addressed – initially as a private letter – to the two most important aristocratic Whig leaders, the Duke of Portland and the Earl Fitzwilliam, whose opinions were held as significant by many (among them Burke) who regarded them as representing the mainstream of the Whig tradition. Consisting of 55 observations on various (sometimes minor) aspects of party policy, the part of the *Observations* most pertinent to the present discussion was the one devoted to treating Fox's Commons speech of 7 May 1793 on yet another motion for parliamentary reform.

In the speech Fox attempted to show that his support for reform was not the result of any Rousseauian or other French ideas, but was rather in line with English and Whig political traditions. He stressed the distance between his views and those of Rousseau by stating to have personally found the beginning of *the Social Contract* "so extravagant, that he could not read it through". Fox then claimed his support for parliamentary reform was within the tradition of the "Magna Charta", and the parliamentary principles of 1640 and of 1688. He also associated the same tradition with support for the American side in that conflict, and with former supporters of reforms that now opposed them, naming among those William Windham (who acknowledged his position had changed because of the French revolution) and, disingenuously, Burke (who did not, in fact, ever support significant parliamentary reforms). Finally, Fox offered the philosophical basis for his

position, by asserting that: "He was ready to say with Locke, that government originated not only for, but from the people, and that the people were the legitimate sovereign in every community".²⁶³

In his treatment of this speech Burke accused Fox, of asserting what was in fact the Jacobins' "fundamental and fatal principle", that "in every Country the People is the legitimate Sovereign". He pointed out that such principle "confounds, in a manner equally mischievous and stupid, the origin of a Government from the people with its continuance in their hands". Burke stressed this was a doctrine unprecedented in any government, with the French revolutionaries having adopted it apparently "from the writings of Rousseau", but he added that whether Fox's position "is necessarily connected in theory with Jacobinism is not worth a dispute: the two are connected in fact. The partizans of the one are the partizans of the other".²⁶⁴ Burke's arguments here deserve particular attention, both because they were not raised on the floor of the house in the heat of debate but selected deliberately, and because of their intended readership: the text was composed in 1793 as a private memorandum sent to the two foremost Whig grandees, the Duke of Portland and the Earl Fitzwilliam, concerning Fox's words and positions, at the time they were considering a break with his wing of the party. In these circumstances Burke could assume them to be intimately familiar with Fox's every contention and wording (indeed Fox's stance in favor of parliamentary reform greatly contributed to the final split of the Whigs). Firstly Burke rejected the "fatal" principle, offered by Fox as Locke's own, of the people as "legitimate Sovereign"; secondly he characterized that principle as maliciously and stupidly confusing the origin and continuance of government; thirdly he claimed this principle was unprecedented in any

²⁶³ "Speech of 7 May 1793" in *Fox Speeches* vol. V, pp. 102-117, and especially p. 115. Fox's mention of 1640 came close endorsing the republican side in the civil war as the precursor of 1688 and the Whig ascendancy.

²⁶⁴ *Observations* pp. 438, 443.

government; fourthly he marginalized the importance of the French and English manifestations of this principle having a common source, stressing instead their convergence in practical questions of policy.

These considerations cannot be understood other than as a complete condemnation of Locke's principle of the sovereignty of the people. Burke did not dispute Fox's identification of his principle with Locke, and thus implied that the denunciation of that principle was one of Locke too. His claim that the principle had no precedent in actual government denied that it (and by implication Locke) was part of the Whig or even the English political tradition. Even Burke's conceding that this bad, wrong and confused principle did necessarily originate in French theory only strengthened the case against Locke, since it left him by default as its undisputed originator. The effect of this accretion of indictments was that without explicitly mentioning him Burke not only disassociated Locke and his theory from the Whig mainstream, but implicitly savaged him as the predicator of a fatal doctrine, held in common with the tainted company of Rousseau and the Jacobins. There can hardly be a more decisive rejection of Locke's theory of sovereignty.

In those parts of the *Appeal* where he treated sovereignty, Burke presented a more comprehensive and detailed version of his argumentation against the same principle of the people as legitimate sovereign. He described the doctrine of the (Foxite) "new whigs" as professing that sovereignty not only did "originate *from* the people", but that "in the people the same sovereignty constantly and unalienably resides". The political consequences that he described as following from this principle, were: that the "people" may "lawfully depose kings" and at their pleasure set up any "new fashion of government"; that "the people are essentially their own rule, and their will the measure of their conduct"; that the "tenure of magistracy" is not a proper "subject of contract" because magistrates have duties but not rights; and that

if a contract “is *de facto* made with them [the people] in one age” even when it binds all of that age, “it does not pass to posterity”. In his treatment of the issue in the *Appeal*, Burke did not attempt to confute one particular version of popular sovereignty, but addressed what he believed were the features common to them all, thus encompassing all the theories upon which such a sovereignty was being proposed in England, which would have included, of course, that of Locke. Burke proceeded to expose what he took to be the fundamental fallacies in both the premise and consequences following from this principle, by concentrating on the use in it of equivocal terms and on the logical inconsistencies following from this equivocation. The most blatant confusion he discerned, one that he reiterated in the *Observations* (and had pointed to in the *Reflections* too), was that between the origin and continuance of government. In his view, this confusion stemmed primarily from the misuse of two terms, “people” and “contract” – that he regarded as crucial to the conceptual framework of this theory of sovereignty. For him, the faulty constructs of “modern” theories of sovereignty sprang in great part from their erroneous grasp of these terms; while only from a correct understanding of the terms a beneficial concept of sovereignty could emerge.²⁶⁵

Burke proposed that when the question of “the supreme authority of the people” was addressed, there should first be a clear definition of what was meant by the term, “people”. Such a definition, he contended, was not clearly made in the “modern” theories embracing popular sovereignty. These theories, he argued, never decided if the term, “people”, described an assemblage of many, independent, individual political persons or rather one whole, collective political person. This indecision, Burke believed, left a fatal

²⁶⁵ *Appeal* pp. 147-148. The same subject was treated in the *Reflections* more concisely: Burke (referring to Price) declared the doctrine of popular sovereignty as either “nonsense” or affirming “a most unfounded, dangerous, illegal and unconstitutional position”, describing its principle as “that a popular choice is necessary to the legal existence of the sovereign magistracy”. *Reflections* p. 97.

gap in the basic arguments of popular sovereignty theories, a fundamental incongruity that was perennially threatening to unravel the fabric from within. He added his conviction that at least some of those holding such theories intentionally avoided definition, in order to identify the elusive popular will with that of “their own faction”.²⁶⁶

Obviously, the unclear definition of “people” was a recipe for constant conflict and confusion. The only apparent course by which to overcome theoretical incoherence, was to assume that the wills of the individuals and the collective coincide at some level – to be in some sense identical – thus, circumventing the conflict, instead of deciding between two options. Burke objected to such a solution both as logically flawed and as politically harmful. The logical flaw he presented concisely in the *Observations*, as a circular succession of contradictory arguments:

Before society, in a multitude of men, it is obvious, that sovereignty and subjection are ideas which cannot exist. It is the compact on which society is formed that makes both. But to suppose the people, contrary to their compacts, both to give away and retain the same thing, is altogether absurd. It is worse, for it supposes in any strong combination of men a power and right of always dissolving the social union; which power, however, if it exists, renders them again as little sovereigns as subjects, but a mere unconnected multitude.

In other words, the sovereignty of popular will was a contradiction in terms, since sovereignty was an idea which pertained to the rules of governing a people, while the power to dissolve society was by definition above all such rules.²⁶⁷

As to the actual political harm of such idea, Burke held that even conceding collective and individual wills coming to coincide, as theoretically coherent, the practical political outcome of such a theory could not but be a disaster.

²⁶⁶ *Appeal* pp. 147-148, 206, 210-211.

²⁶⁷ *Observations* pp. 438-439.

The inevitability of disaster followed for Burke from observing that even those claiming that a harmony of individual and collective wills could be found accepted that this would not be an instantaneous process, but rather one preceded by opinion-forming and deliberation. He pointed out that since the will of the people was created by the decisions of the majority, and such decisions in turn had to originate in the will of individuals, then: "Every individual must have a right to originate what afterwards is to become the act of the majority". He concluded from this that any attempt to put such a theory into practice must result not in (what its proponents assumed) a situation where sovereignty, first vested in individuals, was harmoniously transformed into the collective will by way of majority and consent, but rather in a state where two sovereignties would be constantly wrestling with each other - with nothing at all certain or constant. In other words, nothing is or ever can be settled in such a polity, because all individuals have the right - the complete freedom - to attempt and originate the future will of the collective in whatever fashion they might desire. Instead of the individual and people being basically of one political mind, what actually would result is a perpetual instability of mind - one might say, of minds - a kind of ever changing, unpredictable political will. Such a political system, was destined to witness ever more violent swings between the authority of individuals and that of the collective, a vicious circle of perpetual instability, that could only result in a collapse of the state, or in the abandonment of such philosophical foundations.²⁶⁸

In addition to his objections to the way the term "people" was used by supporters of popular sovereignty, Burke also criticized the use of the term "contract" as so flawed that it lost all meaning. He asserted that the doctrines holding that sovereignty did "originate *from* the people", and that "in the

²⁶⁸ *Appeal* pp. 228-231.

people the same sovereignty constantly and unalienably resides”, meant in practice that the “people” however defined, could depose kings, set up any “new fashion of government” or continue without government. In other words, that “the people are essentially their own rule, and their will the measure of their conduct”. Such rule of will plainly contradicted any plausible meaning of the term “contract” as a binding agreement, and made the “tenure of magistracy” (government) not a proper “subject of contract”, but simply a subject of that arbitrary sovereign will. It should be remembered that only a few radicals (like Paine) explicitly proposed that government was subject to arbitrary popular will, while Lockean and Locke himself attempted to define the relationship in terms of some sort of obligation that was nevertheless not a binding contract (Locke proposed “trust”). By his insistence that the relation between rulers and ruled was a binding contractual one, Burke was plainly targeting the validity of all Lockean attempts – including Locke’s own – to offer an alternative to such a contract. Thus, by his treatment of “contract” he also rejected the use of the term “trust” by supporters of popular sovereignty. Burke’s additional criticism of the sovereignty of popular will, as entailing that a contract “does not pass to posterity”, and thus that a constitution could not bind successive generations, was so similar in wording to Locke’s explicit assertion in the *Second treatise*, that no one could “by any compact whatsoever, bind his children or posterity”, that it seems hardly possible to have been merely coincidental. For Burke, the sovereignty of popular will, since it led to a completely functionalist view of what a constitution is – as merely the expression of the current will of the people – was a recipe for perpetual unrest, the “annual Constitutions” which he sardonically described as France’s lot since the revolution (and which some radicals indeed aspired to).²⁶⁹

²⁶⁹ *Appeal* pp. 147-148; ST sec. 116 (and see also sec. 141); *Fitzwilliam* p. 82. Some radicals, like

It is sometimes claimed by scholars (J.C.D. Clark and F.A. Dreyer are examples) that Burke's use of the term "contract" or "compact" is proof of a debt to the political tradition of the social contract and of Locke. Other scholars (H.T. Dickinson is an example), although conceding that Burke did not subscribe to the Lockean view, propose that Burke wrote little on the subject, and what he did was ambiguous. However, it seems to me that both positions are wrong. Burke not only rejected Locke's idea of contract as a voluntary agreement between self-sufficient individuals, but consistently used the term "compact" or "contract" to describe a political construct with qualities which actually negated those of Locke's contract. For Locke the "contract" established society – or as he termed it the "Community", while government was erected by society as a "trust". Locke (and Lockeanes such as Priestley and Paine) upheld this division exactly for the purpose of arguing, as he did explicitly, that the dissolution of government was not a dissolution of society, and in case of government dissolving, political power reverted to society until it formed a new government. But Burke denied exactly this division between society and government, instead proposing the state as "a social, civil relation", that is, as an essential synonymy of social and political attributes, inextricably mixed. In short Burke did not believe that a political and a social sphere could be neatly (or even messily) divided, because government and society could not exist without each other. If government was dissolved so was society, and "in that state of things each man has a right, if he pleases, to remain an individual". He returned to this same principle in many guises, such as when he described the constitution as the "engagement and pact of society" and denied the right of dissolving "the whole civil and political mass, for the purpose of originating a new civil order out of the first elements of society". Moreover, though he undoubtedly

Paine (more indirectly) and Christie, seriously considered the merits of reviewing the constitution at fixed periods, as proposed in France. See Christie *Letters* p. 162.

asserted this view more forcefully after the outbreak of the French revolution, Burke can be shown to have championed it many years before, at least from the time of the American conflict.²⁷⁰

In effect Burke proposed that theories upholding the sovereignty of popular will made their own use of terms denoting political obligation (like “contract” or “trust”) meaningless, as the only real source of legitimate government they acknowledged was consent. Thus he identified the principle “which supposes society to be in virtue of a free covenant”, in other words, individual consent, as the true linchpin of all theories of popular sovereignty. He held that the failures of these theories to establish coherent definitions for such ideas as “people” and “contract” left them with the claim that it was feasible to achieve a state in which the will of individuals would freely accept the setting and deliberations of the collective, as the only avenue by which a semblance of logical and terminological coherence could be maintained. Following this identification of individual consent as the true foundation for theories of popular sovereignty, Burke attempted to confute such foundations.²⁷¹

At the time Burke was addressing these issues, there were two main versions of what constituted individual political consent. The first one, identified with what Locke defined as “tacit” consent, held that although every legitimate commonwealth had to be based on the consent of its members, this consent could be given in an implicit and passive manner. In Locke’s words “every man, that hath any possession, or enjoyment, of any part of the dominions of any government, doth thereby give his tacit consent”. The second version of consent, advocated among others by Richard Price and Joseph Priestley, held

²⁷⁰ Clark *Reflections* pp. 33, 40 and 219 in note; Dreyer *Burke’s* pp. 68-70; Dickinson *Liberty* p. 291. ST sec. 211, 243; *Appeal* pp. 207, 211-214; *Reflections* pp. 90-91, 105-106, 150. For Burke’s statements of this idea before the French revolution see *Sheriffs* p. 318; *Representation* pp. 96-97. For a discussion of Locke’s view, see Ashcraft *Revolutionary* pp. 576-577. And for Pocock’s view that the passage in the *Reflections* dealing with “first elements of society”, could be read as a repudiation of Locke’s *Second treatise*, see Pocock *Reflections* p. 220 note xiv.

²⁷¹ *Appeal* pp. 211-215.

that at least in principle, the consent necessary for the existence of a commonwealth had to be one expressed by every individual either by direct involvement (in small states) or by the choice of representatives. In Price's words: "In every free state every man is his own legislator".²⁷²

Burke did not enter into a discussion of the differences between versions of individual consent, targeting instead the very use of the idea in discussions about political society. As has been already discussed above, Burke did this by questioning the notoriously problematic assumption, widely identified with Locke, that the "natural" and legitimate expression of this consent was by majority decisions. Instead of Locke's assertion that "the act of the majority passes for the act of the whole, and of course determines, as having by the Law of Nature and Reason, the power of the whole", Burke stressed that deciding by a majority was not a "law of original nature", but rather one of the "most violent fictions of positive law" ever made on the "principles of artificial incorporation". Locke had conceded that "if *the consent of the majority* shall not in reason, be received, as *the act of the whole*, and conclude every individual; nothing but the consent of every individual can make any thing to be the act of the whole". Burke insisted that as at the origin of society there could be no majorities, only unanimity, "a people can have no right to a corporate capacity without universal consent". In other words, he was undermining the idea of individual consent by requiring its proponents to own up to their claim to the assent of every individual.²⁷³

²⁷² ST sec. 119, and also sec. 120-121; Price from "Two tracts on civil liberty, the war with America, and the debts and finances of the kingdom", in D.O. Thomas (ed.), *Richard Price, political writings* (Cambridge, Cambridge University Press, 1991) pp. 23-25. See also Priestley *Essay* pp. 13-14.

²⁷³ ST sec. 96, 98 (and see also sec. 95, 99); *Appeal* pp. 211-215 (Burke was restating almost verbatim what he had predicated in *Representation* pp. 94-95). The solution to the problem of a lack of consent is for Locke a right of secession from the state, but this is not only impractical – certainly when groups and not individuals are concerned – but as Burke had claimed above, also indefensible on logical grounds, when the issue is the dissolution of the social contract.

Burke drove home the consequences of the original agreement of society being created or changed by unanimity only, when he added that any other method would have contradicted the meaning of the term “contract”. He pointed out that as the very “nature of a contract” was to be obligatory to all parties to it, then, when a political compact was settled upon, whether “tacit or expressed”, the terms of agreement could be legitimately altered only with “the consent of all the parties”. By this last argument Burke drove home his contention that any notion of individual consent “tacit or expressed” was irreconcilable with the idea of contract. For even if a social contract started as a “free covenant”, from the moment it was established no party was “free” anymore but bound to its contractual obligations. By the very act of political incorporation, the contract ejected individual consent from the political arena. Moreover, since even the proponents of consent agreed that unanimity was unachievable, the presence or lack of individual consent became completely irrelevant to the existence of the state.²⁷⁴

It is important to add here that, although Burke was willing to discuss the theoretical proposition that political societies originate with a “free covenant” – in order to show its logical inconsistency – he did not believe such could be the case in any actual instance. As already discussed, in his opinion, the actual beginnings of political societies always and unavoidably involved problematic – sometimes criminal – circumstances. It was because unanimous agreement was a chimerical idea, and majority decisions impossible before political society existed that the state at its beginning necessarily acted without individual consent, and often relied on the threat or the actual exertion of brute force. Hence, Burke warned, great concern with the circumstances in which the “original power” of the people might revert to them, was “nice, and therefore dangerous” – for “resuscitation of such a

²⁷⁴ *Appeal* pp. 200-202.

power in the people" whether lawful or not must be in any case "devious", because "ever on the edge of crimes". He noted this was the case not only at the beginning of political societies, but also when the authority of existing governments was threatened, as had been the situation in 1688, which he described as "wholly out of the law". In Burke's opinion, then, the principle of a free covenant or consent, far from being the solution to the origin of political society, was the problem.²⁷⁵

But the erroneous quality of the idea of consent, did not, for Burke, exhaust its noxious and damaging effects. He held that political consciousness was dangerously warped by this idea, which, under the cover of perceived rights, made men's individual, arbitrary will, the source of sovereignty. The introduction of individual consent into political discourse fostered a presumptive political right of individual self-determination from which the only certain thing to emerge was the natural human lust for power. This was because the idea of consent, could not be confined to the beginnings of commonwealths only, and once accepted as legitimate in political discourse, it soon would undermine every aspect political society. Consent given at will, could be taken back by the same will, and thus the individual was never really giving up his sovereignty. He was never wholly in society and in fact there never was a society – only a collection of autonomous individuals vying for what they will. At the individual's pleasure was the possibility of trying to alter (or destroy) the frame of government, as he only had to try and convince others of his opinions. Burke was convinced that the last corruption of ruling power, "arbitrary will", would gradually poison the heart of every citizen, and all love of country or of laws and customs would be replaced by conspiracies and sedition "grown into a principle, and animated by

²⁷⁵ *Appeal* pp. 209-210; *Reflections* p. 116. Elsewhere he commended the wisdom of parliamentary leaders of 1688 that disinclined them from using "the powers derived from force and opportunity" to begin political society anew. See *Reflections* p. 104.

discontent, ambition, or enthusiasm". The notion of consent would convince men that any change in the polity, including that of the frame of government, depended only on their will. Such conviction meant that states based on individual consent could never know rest from attempts to change them, for even when such enterprises succeeded, in no way was "the new state, fabricated by such arts, safer than the old". All the prerequisites for another change would be still in place, as long as the principle of consent persisted. Moreover, since consent to political change could be achieved after the alteration of the state, this principle legitimated any successful revolt. For Burke, therefore, the principle of consent tended to legitimize politics as merely a brute struggle for power, with success becoming the only criterion for judging a revolt, and politics reduced to a state of might makes right. The only important thing would be to acquire, by any means, "the possession of power".²⁷⁶

Such doctrines, fostering in men a presumption of a sovereignty of individual will, tended to subvert not only "all government, in all modes" and "all stable securities to rational freedom", but even "all the rules and principles of morality itself".²⁷⁷

(ii) The "communi sponsione reipublicae": Burke's sovereign idea - Burke's rejection of the "modern" doctrines of popular sovereignty brings up the question of his alternative to them. I will now attempt to show what he believed to be a theory of sovereignty that was not only morally desirable, but also coherent and feasible. The fundamental principle of Burke's idea of sovereignty was that it started with the community. Contrary to political

²⁷⁶ *Appeal* pp. 228-231. Burke then appears to be saying that the only result of a polity effecting Locke's principle of consent, will be Hobbes' state of nature.

²⁷⁷ *Appeal* pp.147-148. Burke was particularly exasperated by such theoretical speculations, in times of political instability, wondering why, even if "speculatively" true (adding "God forbid they should!"), would someone bring them up at a time when such "perilous theories" were everywhere undermining "the foundations of all antient and prescriptive Governments". See *Observations* pp. 438-439.

theories that started with the individual and proceeded to create and define the collective, Burke's discussion of political society started from the community, which for him to a great degree defined the individual. This community was not an abstract collective, but always a particular one, with a history and a character of its own. In this sense, there was no difference for him between the origins and practice of sovereignty – an actual political society was the origin and the practice of sovereignty. The claim that sovereignty originated from the people was "a position not denied, nor worth denying or assenting to", because it was not relevant to current political society.²⁷⁸

As shown by his view of the political role of opinion, Burke always accepted that a government neither could nor should persist for long without popular support. But he believed that popular opinion could be legitimately expressed only through the traditional constitutional framework, because without the constitution there was no "people" and thus no popular opinion. Only within the framework of an existing political society could a meaningful discussion of sovereignty and related ideas, like consent, contract or rights, become possible. Thus, Burke refused to accept the "modern" theories' view of the people as a head count of individuals or as an indefinite mass, regarding it instead as a population headed by its traditional leaders and acting by the established rules and institutions of that political society. When "great multitudes act together, under that discipline of nature, I recognise the PEOPLE".²⁷⁹

Indeed, Burke's definition of the people as political society, goes a long way towards explaining his idea of sovereignty:

²⁷⁸ *Reflections*, pp. 152-153.

²⁷⁹ *Appeal* pp. 217-219; *Remarks* p. 458; *Discontents* pp. 252, 278-279. For this reason Burke also opposed appeals for public contributions, "voluntary, according to the irregular, unsteady, capricious will of individuals", demanding instead action through traditional institutions "according to the will and wisdom of the whole popular mass, in the only way in which will and wisdom can go together". See *Regicide* III pp. 351-352.

The idea of a people is the idea of a corporation. It is wholly artificial; and made like all other legal fictions by common agreement. What the particular nature of that agreement was, is collected from the form into which the particular society has been cast. Any other is not *their* covenant.

This is a passage with many significant insights into Burke's ideas. But the most important one concerns his use of the term "corporation". The most important feature of his definition was the description of the corporation as an idea. His depiction of this idea as "artificial" and "fiction" makes plain he did not regard it as some kind of organism. Moreover, by portraying it as a "common agreement", he indicated that for him the essence a corporation was not in its technical legal definition. Rather than as a formal structure, he saw it as signifying shared opinions and attitudes. It may be added that Burke's definition was not an occasional turn of phrase, as it reiterated his remark from 1782 (discussed above), to the effect that terms like "politick or corporate personality" describe "ideas" and as such "mere fictions of law, they are creatures of voluntary institutions".²⁸⁰

Burke's corporation of the people was – unlike the French revolutionary monolithic self-image that Burke derided as "the Republick one and indivisible" – a compound of smaller and different corporations. Some of these had no formal political function, but were nevertheless potent elements of political societies. At times they were only shared "resemblances" "conformities" "sympathies", the "secret, unseen but irrefragable bond of habitual intercourse", which created collective attitudes and ideas. At other times they were more formal associations, like societies and clubs. Other

²⁸⁰ *Appeal* pp. 210-212, 215; *Representation* pp. 94-95 (see also pp. 104-105). On the origins of the idea that the English state as a corporation was not an organic entity akin to a human body, but rather an undying corporation – deriving from the theological term "corpus mysticum" – see in S. Lockwood's "Introduction" in S. Lockwood (ed.), *John Fortescue, On the laws and governance of England*, (Cambridge, Cambridge University Press, 1997) p. xxvi. See also discussion of Burke's view of corporation in Hampsher-Monk *History* pp. 282-285.

corporations were more legally established as constituent parts of the political systems (though this did not exhaust their function) like the aristocracy, the established church, chartered boroughs and of course the Houses of Parliament. Burke had famously championed early on in his career the creation of a political role for parties as a kind of corporation. He claimed to have arrived at this position after the rise of a new court party or "Court corporation", which had to be opposed by the creation of another grouping, a party as "a body of men united, for promoting by their joint endeavours the national interest, upon some particular principle in which they are all agreed". Accordingly, he commented many years later that political "factions become in effect bodies corporate in the state". Together the smaller corporations formed the greater compound corporation that was the political system, and hence "in civil society, its own specific conventions in each corporation, determine what it is that constitutes the people, so as to make their act the signification of the general will".²⁸¹

For Burke most men partook, as a matter of course, in many associations, both formal and informal. These naturally overlapped (and sometimes conflicted), but he saw it as possible – indeed commendable – that a man did not have to hold one sole allegiance that would reject all other affections and affiliations. Not only did a strong allegiance to one's community not preclude sympathy for others but men typically were members of several collectives – local, occupational, devotional, familial, some inherited, some elective and many entailing particular rights or duties. Men could be committed to more than one collective (especially if the two were themselves to some degree affiliated), such as was his own case when he stated his commitment to

²⁸¹ "Republick" in *Remarks* p. 458; "irrefragable" *Regicide* I p. 247; "Court corporation" *Discontents* pp. 274, 316-318; *Religious*, p. 45. "factions" *Appeal* pp. 210-211, 215. Burke also indicated that there could be super-national corporations (such as confederations) and that individual states were "municipal corporations of that universal kingdom" of "eternal societies". See *Reflections* pp. 120, 195.

further the cause of liberty in both his native Ireland and his adoptive England, such was the case of his friend Lord Keppel, which he described as having had two countries “one of descent, and one of birth” (the Netherlands and England), adding that to him “[t]heir interests and their glory are the same”.²⁸²

The most important of the corporations composing a political society was, for Burke, the family. Though not directly part of the political system, the family was the first (in both sequence and importance) community, through which men came into the larger community “with the social status of their parents, endowed with the benefits, loaded with all the duties of their situation”.

Furthermore, Burke explicitly stated that the British gave

to our frame of polity the image of a relation in blood; binding up the constitution of our country with our dearest domestic ties; adopting our fundamental laws into the bosom of our family affections; keeping inseparable, and cherishing with the warmth of all their combined and mutually reflected charities, our state, our hearths, our sepulchres, and our altars.

But perhaps the most important aspect of this similarity and affinity between the qualities of political society and of the family – what he described as “philosophic analogy” – was what it told about the character of political obligation.²⁸³

Marriage may be voluntary, but the duties of marriage are defined by the nature of that institution. Being born is certainly not voluntary. The familial relations of the individual, whether of choice or not, entail obligations to which every one is bound, irrespective of his choice. The duties arising from such relations, “as we are able perfectly to comprehend, we are bound

²⁸² *Noble* p. 167, 182-183. Burke returned to this theme on various occasions. See *Appeal* p. 207 and *Regicide* III p. 325.

²⁸³ *Appeal* pp. 264-265, 206-207; *Reflections* pp. 151, 120-121. More generally About Burke’s language of family in the political realm see in S. Blakemore, *Burke and the fall of language* (University Press of New England, 1988) pp. 32, 35-37.

indispensably to perform". The analogy between such familial obligations and political ones, was made explicit by Burke. For him the social ties spun out of these physical relations were "the elements of the commonwealth", and in the same way as they continue

independently of our will, so without any stipulation on our own part, are we bound by that relation called our country, which comprehends (as it has been well said) 'all the charities of all'. Nor are we left without powerful instincts to make this duty as dear and grateful to us, as it is awful and coercive.

In other words, the obligations of a man towards his political society were of the same nature as his duties towards his family. From this followed, wrote Burke, that men did not have a right

to free themselves from that primary engagement into which every man born into a community as much contracts by his being born into it, as he contracts an obligation to certain parents by his having been derived from their bodies.²⁸⁴

Moreover, Burke maintained that even the rare exception to this rule, when "necessity, which is out of and above all rule, rather imposes than bestows" made a civil war or dethronement of a King inevitable, it was always "an extraordinary question of state, and wholly out of the law", one of dispositions and means and probable consequences "rather than positive rights". In effect Burke denied that terms like laws and rights could be ever employed as a way to deal with the breakup of the civil order – which was the whole point of Locke's *Second treatise*.²⁸⁵

²⁸⁴ *Appeal* pp. 206-208. See also C. Parkin, *The moral basis of Burke's political thought* (Cambridge, Cambridge University Press, 1956) p. 31. A good example of the connection that, Burke claimed, was recognized even by revolutionaries, between the hierarchical order of family and society, is his mention of the Foxites' opposing primogeniture (of landed inheritance). They held it to be "a law against every law of nature", creating injustice in the family – but the result they expected from annulling it was a political one, saying: "Establish family justice, and aristocracy falls" [this is from Paine]. *Appeal* p. 189.

²⁸⁵ *Appeal* pp. 206-208, *Reflections* p. 116.

It is instructive to see how, parallel to this idea of the syntony of political and familial obligations, Locke (and Hobbes) proposed a fundamental agreement between the nature of political and familial relations, but one that was completely opposed to Burke's. Locke's *Two treatises* was an attempt to refute absolutist claims (the most famous of which, in Filmer's *Patriarcha*, prompted Locke to pen the work) that political authority originated in familial (that is paternal) authority, which was to be identified with the monarchy. Locke (and Hobbes) denied such origins of political authority, and claimed that even familial relations were based on a rational consent. For Locke, the power of parents over children sprang only from the incapability of the under-aged to take care of themselves. This power, being necessary only because of the dependence of infants on parental care, was a trust that ended when the child reached adulthood. It was a relationship that had nothing to do with physical or affective bonds. It meant that no man could bind his children or posterity in any way, for once the child once became an adult he had the freedom to decide on his own about every matter, and adults had no duties towards their parents. It was the same in the political as in the familial sphere, as, for Locke, consent was the basis for all authority.²⁸⁶

The fundamental principle of Burke's theory of sovereignty, was that the obligation of the individual to his political society existed "independently of our will". This obligation followed from Burke's contention that society preceded men, so that every individual was bound to the collective which had created him. This was also extendable to immigrants, who could be said to be adopted by political society, by their immediate enjoyment of its laws, culture, economy and so on. It was a transaction in which men living in a political society had already received the goods, the benefits of social life they

²⁸⁶ G.J. Schochet, *Patriarchalism in political thought* (Oxford, Blackwell, 1975) pp. 226-239, 245-263. Hobbes too accepted familial, or rather paternal, authority (even in the state of nature), but held that this derived from the consent (or assumed consent) of the child.

were enjoying, and so were bound to pay the costs, their obligations towards that society. Burke argued that in practice, men submitted to “antient and prescriptive” governments, “not because they have chosen them, but because they are born to them”. He emphasized that obligations to society were also justified by their affinity with the basic moral duties that men keep, regardless of their wishes, since “the strongest moral obligations are such as were never the results of our option”. The involuntary character of Burke’s political sovereignty was made unmistakable by his contention that even if there were cases where the coming into political society could be shown to have initially been a voluntary act, “its continuance is under a permanent standing covenant, co-existing with the society; and it attaches upon every individual of that society, without any formal act of his own”. Burke’s obligatory “permanent standing covenant”, immediately brings to mind the “free covenant” based on consent, which he had condemned so forcefully as spurious. Especially in the *Appeal* he cast the two as opposites, proposing that

[n]either the few nor the many have a right to act merely by their will, in any matter connected with duty, trust, engagement, or obligation. The constitution of a country being once settled upon some compact, tacit or expressed, there is no power existing of force to alter it, without the breach of the covenant, or the consent of all the parties. Such is the nature of a contract.²⁸⁷

The contrast between his obligatory and unchangeable “covenant”, and the derivative and instrumental meaning of the term he ascribed to the “modern” theories of popular sovereignty could not be starker. He denied that a right to frame the commonwealth at will existed, in the “few” or the “many” and denied any legitimacy for such a will effecting changes in the constitution except by unanimity. Burke stressed that his claim that contracts were unrescindable was not only a matter of logical or terminological consistency, but

²⁸⁷ *Appeal* pp. 200-202, 204-206; *Observations* pp. 438-439.

also one of utilitarian and moral significance to society. The keeping of contracts, whether one liked them or not, was the one fundamental rule without which any other rules cannot exist.

The people are not to be taught to think lightly of their engagements to their governors; else they teach governors to think lightly of their engagements towards them. In that kind of game in the end the people are sure to be losers. To flatter them into a contempt of faith, truth, and justice, is to ruin them; for in these virtues consists their whole safety. To flatter any man or any party of mankind, in any description, by asserting, that in engagements he or they are free whilst any other human creature is bound, is ultimately to vest the rule of morality in the pleasure of those who ought to be rigidly submitted to it; to subject the sovereign reason of the world to the caprices of weak and giddy men.

For Burke, the term “contract” implied a non-rescindable obligation of all those comprised in it. Any attempt to breach the social contract created not only an intellectual problem but a political and moral one too, because all engagements were then cast as similarly open to challenge. His emphasis on the falsehood of the claim that governors were bound while the people were not, strongly suggested that the culprit was Locke’s idea of trust.²⁸⁸

Burke’s obligatory covenant was his version of the contractual basis at the source of authority in the state. He described this idea in the *Reflections*, (while discussing the source of authority for the settlement of monarchical succession) as “emanating from the common agreement and original compact of the state, *communi sponsione reipublicae*” – the common engagement of the state – and its laws are binding on King and people as long as “they continue the same body politic”. He returned to it in the *Appeal* when he remarked that

²⁸⁸ *Appeal* pp. 212, 200-202. Compare to ST sec. 95. Burke suggested that the fundamental political safety for the people lay in keeping obligations, even ones they did not like. If this was not done then the strong few were the only ones who stood to gain, because without a general keeping of engagements binding them, they could (and would) do as they wished with the weak. According to his view, the rules of society were made in order to give the weak some protection from those stronger than them.

the “covenant” and form in which a particular political society was cast, were made “by common agreement”. The principle was that men living within the framework of such an “original compact” and “covenant” bore “a virtual obligation as binding as any that is actual”. This idea, with its stress on “virtual obligation” stemming from the management of affairs by a benevolent agency, appears to be connected to the political argument deriving from the concept of “quasi-contract” (originally “ex quasi contractu”, linked to the wider concept of “negotiorum gestio”). This derived from civil (Roman) law, but established in British political discourse as an important idea by Josiah Tucker’s anti-Locke *Treatise* of 1781. Unfortunately, the extent to which Burke was indebted to civil law or to Tucker (if at all) in developing his idea of political obligation has not yet been addressed by scholarship.²⁸⁹

It can be said that the character of obligation in Burke’s political society, the source of authority, was hereditary. It was hereditary because men inherited their duties and rights, as well as the whole of their political system, rather than choosing it. Burke viewed this principle of inheritance not merely as a factual aspect of present politics, but also as a feature that should be understood and cultivated. The need for such an attitude arose from the very nature of political society as an idea. Since “commonwealths” were “the arbitrary productions of the human mind”, changes “in the constitution of the human mind” could have great effects on the state, indeed could destroy it. His antidote to transient intellectual fashions and hazardous opinions was the acceptance of the political role of inherited ideas. He stressed that

a nation is not an idea only of local extent, and individual momentary aggregation, but it is an idea of continuity, which

²⁸⁹ *Reflections* pp. 105-106; *Appeal* pp. 210-211, 204-206. See also Sheriffs p. 315, for Burke’s 1777 description of the relationship between “the general sense of the community” and the legislature. The phrase, “*communi sponsione reipublicae*”, has not been traced to ancient sources – it might have been created by Burke. Pocock translates it as “the common volition of the commonwealth” – see Pocock *Reflections* p. 220. About “quasi-contract” see OED vol. XII pp. 1002-1003. See also Tucker *Treatise* pp. 141-146.

extends in time as well as in numbers, and in space; And this is a choice not only of one day, or one set of people, not a tumultuary or giddy choice; it is a deliberate election of ages and of generations.

This was his justification for “prescription of government”. He rejected claims according to which such a political system was “formed upon blind unmeaning prejudices”. He argued instead that inheritance as prescription was the only method of injecting deliberation and wisdom into the inevitably complex endeavor that is politics. Inherited prescriptions embodied real reasons, even if men were unable to discern them at a certain times. He maintained that

man is a most unwise, and a most wise, being. The individual is foolish. The multitude, for the moment, is foolish, when they act without deliberation; but the species is wise, and when time is given to it, as a species it almost always acts right.²⁹⁰

In such a hereditary political society rights too effectively became obligations, since the individual who inherited them was bound to preserve and transmit them “in the same manner in which we enjoy and transmit our property and our lives”. Accordingly, Burke praised the men of 1688 for understanding that English liberties could be perpetuated and preserved “sacred” only as “*hereditary right*”, since from Magna Charta to the Declaration of Right, English liberties were all asserted as entailed inheritance, as an estate, without any reference to general or prior rights. The English thus had had “an inheritable crown; an inheritable peerage; and an house of commons and a people inheriting privileges, franchises, and liberties, from a long line of ancestors”. The implication was clearly that in a hereditary political society,

²⁹⁰ *Regicide* I p. 188; *Representation* pp. 96-97. In the latter text he further expanded on this idea remarking that “a Constitution made by what is ten thousand times better than choice, it is made by the peculiar circumstances, occasions, tempers, dispositions, and moral, civil, and social habitudes of the people, which disclose themselves only in a long space of time”.

duties and rights were a kind of possession, almost a property. The “idea of inheritance” furnished for Burke the principle by which such property was retained through the generations, without excluding additions to it, which “proceeding on these maxims, are locked fast in a sort of family settlement”. But even more pertinent than the analogy of the family in this context, was for him that of the corporation. He described political improvements in such a political system as “grasped as in a kind of mortmain for ever”. Mortmain (literally – dead hand), was a legal term describing land holdings which were made inalienable because owned by a corporation. To him political society was such a corporation, formed as “a permanent body composed of transitory parts”.²⁹¹

Having established the character of Burke’s “body corporate of the kingdom”, it is now left to see what “organ it is that shall declare the corporate mind”, and by what process. What were, the principles upon which the practice of sovereignty was to be executed in his view of political society? The decisive and most particular element of Burke’s sovereignty was the role ascribed in it to custom. I have already pointed out that he held each political society to be established and defined by its own particular “covenant”. Burke nevertheless held that there was one constant to which all political societies had to give heed, and that was the central role of custom. It was in great measure by that society’s political traditions, its customs, that the principles of such a covenant were to be discerned. This was articulated most clearly by Burke when he wrote that he has made

what the antients call *mos majorum*, not indeed his sole, but certainly his principal rule of policy, to guide his judgement in whatever regards our laws. Uniformity and analogy can be preserved in them by this process only.

²⁹¹ *Reflections* pp. 110, 119-120. For a discussion of these ideas, see Pocock *Reflections* pp. 211-212. For “mortmain” see OED vol. IX p. 1106.

Meaning ancestral custom, “mos majorum”, which also originated in Roman law, was regarded by Roman writers as the source for many of their laws, while also implying that there was a moral element inherent in established customs. Accordingly, Burke added that when this point was fixed, speculations could swing in all directions “without publick detriment, because they will ride with sure anchorage”.²⁹²

Burke’s support of, and reliance on, custom and experience in politics is a commonplace, and has certainly been attested to on innumerable occasions. However, there is a significant aspect of this issue that has not as yet been adequately understood. Studies of Burke’s ideas stress one aspect of the importance he ascribed to the political effect of established custom, that of accumulated experience. This might be called the empirical function of custom, and it certainly formed part of Burke’s justification for its role in politics. But for him this was not the essence of custom’s role in politics. Furthermore, this essence was also not embodied in the assumption of wisdom on part of past generations of lawgivers.²⁹³

The important aspect of Burke’s idea of political custom, that has not yet been sufficiently acknowledged and understood by scholars, is that custom or convention was for him an actual component of the political sovereign. Moreover, it was not an insignificant component, but the actual holder of the greater part of sovereignty. In other words, custom for Burke was far more than a prudential practice of accumulated experience, and was, in fact, the holder of the main share of actual sovereignty in the state. This consequence followed from the fact that the source of all authority in Burke’s political

²⁹² *Appeal* pp. 163-165, 213.

²⁹³ For Burke stressing the importance of both accumulated experience and the wisdom of past generations as important benefits of the British constitution see *Appeal* pp. 264-266. M. Freeman is a modern scholar who puts the emphasis on these aspects, writing that Burke viewed tradition as representing the historical accumulation of wisdom, so that on the whole “the later, the better”. See M. Freeman, *Edmund Burke and the critique of political radicalism* (Oxford, Blackwell, 1980) pp. 98-104.

society, the “sure anchorage” for all deliberations was its “original contract”.²⁹⁴

The original contract might be said to be the real sovereign, as long as the state existed, since its fundamental principles could not be overcome, and all were subject to them. More so, since the individuals in the state were made by it and to it. As seen above, Burke opposed abstract speculations about the nature of the state, but he also rejected the originalist approach to the “ancient constitution”. Thus, the only means by which the principles and rules of the contract were to be discerned was the agency of custom. By this agency, custom produced a real and decisive authority in political society. Burke asserted that exactly such a role was fulfilled by custom in 1688, when the Declaration of Right observed “the traditional language, along with the traditional policy of the nation”. In this sense, as a reiteration of the customary political principles of the state, the Declaration was for him an “immortal law”.²⁹⁵

The political result of such an approach was, for Burke, that

[w]here the great interests of mankind are concerned through a long succession of generations, that succession ought to be admitted into some share in the councils which are so deeply to affect them. If justice requires this, the work itself requires the aid of more minds than one age can furnish.

²⁹⁴ Burke’s use of the term “original contract” in his discussion of sovereignty seems calculated to oppose the particular and unrescindable contract of each society to the “modern” notion of an abstract social contract. The term “original contract” used by the Commons to describe the basis for the English polity: “That king James the Second, having endeavoured to subvert the Constitution of the Kingdom, by breaking the Original Contract between king and people, and, by the advice of Jesuits, and other wicked persons, having violated the fundamental Laws, and having withdrawn himself out of this Kingdom, has abdicated the Government, and that the Throne is thereby become vacant”. But the Lords did not agree to the wording, and it was absent from the final declaration of parliament. See PH vol. V p. 50.

²⁹⁵ *Reflections* pp. 103-104.

In other words, custom, the “succession of generations”, ought to have a share in the political “councils”.²⁹⁶

Burke explicitly stated that the political “PEOPLE”, acting within its traditional framework, had a real title to sovereignty, “that perhaps equals, and ought always to guide the sovereignty of convention”. What Burke was saying then was that even within the confines of the traditional political structure, the political nation did not hold supreme sovereignty. Instead his sovereignty was a compound of the political nation and of convention. Moreover, the division of sovereignty between these two was such that even when the “people” deliberated to act together in harmonious agreement, its quantum of that sovereignty only “perhaps equals” that of convention. This meant that not only when there were disagreements within the political system, no prominent component of it (like the King or the Commons) had sufficient sovereignty to legitimately deliberate; but that even when all components agreed on a political course, there remained an essential power of veto of custom, which prevented certain types of decisions that could affect the principles of that civil society. When it is considered that in Burke’s view the political “people” were in many of their aspects defined and directed by custom, it appears that in fact custom always held more than half of sovereignty. The only significant power of the political nation in this respect was the title it had (and only when in general agreement) to “guide” the sovereignty of convention.²⁹⁷

²⁹⁶ *Reflections* p. 282. Burke described the establishment of this principle in government “a power like that which some of the philosophers have called a plastic nature” left to operate in the constitution.

²⁹⁷ *Appeal* pp. 217-219. In *Reflections* p. 192, Burke expressed the same idea when he declared the current generation in a state to be “the temporary possessors and life-renters in it”, that should not dare to “act as if they were the entire masters” and “teaching these successors as little to respect their contrivances as they had themselves respected the institutions of their forefathers”. See also Pocock *Ancient* pp. 182, 188, 229-232. This position by Burke is in agreement with the view of sovereignty presented in a manuscript from 1788-1789,

Burke was not unaware that such a role for custom presented several problems. Among the various objections that might be raised against such a view of sovereignty, probably foremost was that of a possible inability of custom to cope with changing circumstances. I believe that Burke attempted to answer this problem by a combination of appeals to public virtue in extraordinary circumstances, but primarily by an emphasis on the conservation of old and even apparently obsolete parts of the customary constitution, which could be revived and shaped into a new role. Such was the case with the constitutional instrument of Impeachment which Burke had a principal role in reviving after a long hiatus by the proceeding against Warren Hastings; and such was the case with the Convocation of Clergy, which Burke hinted, might be revived one day, if the need arose.²⁹⁸

The peculiarity of Burke's idea of sovereignty, what he termed as "the beautiful order", may be reduced if it is examined in the context of being a corporation. The foundation of sovereignty in this corporation, the source for all legitimate acts of political power, was the original contract of every political society. This contract, creating and defining civil society, was the charter of the corporation, defining the basic principles to which all the legitimate political acts within the corporation – executive, legislative, judicial – had to conform. Custom was the regulation of the charter by way of which the basic principles were relayed and transmitted through the generations while conforming to changing historical circumstances. The generation of those living in the state at a certain time was the current membership; its government, the current executive body of the corporation. Bound by the basic principles and trustee for past and future generations, such a

attributed by some to Burke, and entitled "The voice of reason". See discussion in Canavan *Reason* pp. 212-214.

²⁹⁸ Elliot pp. 39-42; *Sheriffs* p. 316. Impeachment had been last employed in 1746, but Burke long considered it an important constitutional instrument, and had contemplated its revival at least since 1780. See P.J. Marshall's "Introduction" in WS vol. VI pp. 2-3.

government had only the permission to guide it through contemporary circumstances, in order to preserve the corporation according to its principles. Since, for Burke, civil society was a corporation comprising all past and present (and future) generations, he held them all to have a share in its sovereignty. His sovereign was thus the historical, corporate people. Or, in Burke's own words: "Corporate bodies are immortal..." and "Nations themselves are such corporations".²⁹⁹

A reconsideration of current scholarship on Burke's idea of sovereignty is now possible. The views expressed by scholars such as O'Gorman, Dickinson, and Conniff, according to which Burke's sovereign in Britain was the "King-in-Parliament" are incorrect. He held this body to guide the sovereign decisions of the state, but only as an agent of the corporate people, being bound to the political principles of the original compact as expressed by political conventions. Thus, according to Burke, the King-in-Parliament could not, for example, legitimately decree an abolition of the House of Lords – even if the Lords had assented to this.³⁰⁰

Dreyer's claim of basic incoherence in Burke's discussion of the state and its sovereignty, is a serious one, for it addresses his alternative use of three – apparently inconsistent – identities in this discussion, "agency", "trust" and "corporation": in the first government is the agent of the people, in the second the trustee for the people, in the third the corporation of the people. But these

²⁹⁹ *Appeal* pp. 218-219; *Reflections* p. 247. It is interesting to note in this context, that in his long involvement with the affairs of the East India Company, Burke was indeed dealing with a corporation that had become, in the sub-continent, something very much akin to a state. The arguments and concerns he developed while treating this concrete situation may have aided the theoretical framework he presented here.

³⁰⁰ Burke asserted that the various components of the political structure could not renounce their share of authority, since all were bound to keep "public faith". If this principle was not kept, he warned, their "competence and power would soon be confounded" and the only law left would be "the will of a prevailing force". See *Reflections* p. 105. This was also the justification Burke gave for rejecting the legitimacy of the French National Assembly, as it had unconstitutionally changed the principles on which it was originally constituted and assembled as the States General. See *Appeal* pp. 230-234.

inconsistencies are only apparent, if the characteristics of Burke's corporation of political society are taken into account. If sovereignty is placed in the historical people, then government as the directive body of that corporation is both the agent for the current members of the corporation (which can express their wishes and interests), and the trustee for those of the members (past and future generations) that cannot actively represent their interests.

Strauss' indication that "convention", "original compact" and "established constitution" are identical, is to a great degree correct, though he does not elucidate the point adequately, but the main problem with his view is that he tends to obscure the significant share of sovereignty held by current political institutions, and their leading role in directing the practice of that sovereignty. In the case of Stanlis' treatment of the subject, his rather description of a concept of political sovereignty "based on Natural Law" and on reverence for "the corporate character of the people" does not describe or explain the actual place and function of sovereignty in Burke's thought.

Pocock's description of Burke's view as "prescriptive" (as opposed to "ancient") constitutionalism appears to me incorrect. Pocock correctly stresses the adaptive aspects of Burke's idea of constitution, without however granting enough importance to the implications of the sovereignty of the original principles. His interpretation makes Burke's constitutional view much more functionalist and even relativist, than is warranted by the considerable constraints established by Burke's adherence to the original principles, on the possible direction such a constitution might take in its development through the years. Pocock claims that Burke held that "an immemorial constitution is not based upon any original principles", being only prescriptive. But Burke, it will be remembered, stressed the danger of "meddling with the fundamental principles and ancient tried usages" of the constitution. Clearly he held that although the "sole authority" of the constitution was prescriptive, some "principles" existed in it. That is, for

Burke the constitution did not draw authority from its principles, but from its own existence and function over time. Burke's view was closer to the ancient constitution tradition than Pocock's "prescriptive" title concedes. Burke believed there was an ancient constitution, but held that only its general principles were immutable; he believed in the constitution as a developing whole, but put limits to this development since it could not outgrow the original principles. His concept of constitution might be described as immutable in its principles, and adaptive (to a degree) in its forms.³⁰¹

Strauss, Dreyer, Stanlis and Pocock, while closer in their interpretations of Burke's theory of sovereignty than other scholars, and correctly identifying some of its aspects, do not present an adequate picture of the components and the whole of this theory. Hence, no there is not yet to be found a definition that satisfactorily describes the complete characteristics and implications of Burke's concept of sovereignty, with the peculiar role assigned in it to the sovereignty of custom.

(iii) The "recovery of that *antient* constitution": Burke's sovereignty applied

- It is now possible to proceed to a discussion of how Burke related his theory of sovereignty to actual cases of particular polities and constitutions. Apart from a few general moral principles, which, he believed, were upheld by religious establishments, in virtually all traditional states, Burke held political societies to be accountable primarily to their own rules. The premise of the polity as being to a great measure defined by its original constitution, and irrevocably bound to it, resulted in a concept that might be termed hereditary constitutionalism. Burke clearly set such a concept of a constitution against that held by "modern" political theories. He stressed the fundamental difference between a concept of constitution as a binding and irrevocable statement of principles, and one where a constitution was in effect a set of

³⁰¹ *Representation* pp. 93-94; Pocock *Politics* pp. 228-229.

procedural rules, changeable at will by decision of the current population of the state. His constitution was in effect the extension and articulation of the original social contract and its customary practice, while the other concept's subjection of what it terms "constitution" to the sovereignty of popular will necessarily established it, in Burke's opinion, as inherently anti-constitutional.³⁰²

Quite naturally, Burke's most extensive and recurrent treatment of this issue regarded the British constitution. He claimed that the general concept of political sovereignty he advocated was the same one expressed by the particular British constitution and by the "old" Whig tradition of government. In virtually all of Burke's works touching on the British constitution he treated what he saw as potentially fatal attempts to impose on it the "new", "speculative" or "French" constitutional principles. For Burke the real problem with Foxites, declaring as Fox himself did in 1791 that "the new constitution of France" was "the most stupendous and glorious edifice of liberty, which had been erected on the foundation of human integrity in any time or country", was that they claimed that such constitution was erected on the principles inherent in the British constitution. Burke vehemently denied this, claiming that "the French constitution was the exact opposite of the English in every thing, and nothing could be so dangerous as to set it up to the view of the English, to mislead and debauch their minds". To him that was precisely the object of the "modern" Whigs, subversion "of the *whole* constitution of this kingdom", in order to replace it with their new notions and "modern usages".³⁰³

³⁰² See Burke's characterization of the theory of the will of the people as an "unconstitutional doctrine" in *Reflections* pp. 110-111. See also p. 184. Though he was referring to the British constitution here, it is obvious he thought such a doctrine was unconstitutional in every state that was not revolutionary France.

³⁰³ *Quebec* pp. 2-3, 20-21; *Appeal* pp. 82-83.

Undoubtedly, the most extensive treatment of the matter was in the *Appeal*, where, relying mainly on quotes from the 1710 impeachment trial of Dr. Henry Sacheverell, Burke strove to show his concept of political sovereignty was the same one as upheld the managers of the impeachment, commonly accepted in Burke's time as representatives of the mainstream Whig tradition of government. He presented the constitutional doctrine of the "antient whigs" as postulating that there was an "*original contract*, implied and expressed in the constitution of this country, as a scheme of government fundamentally and inviolably fixed in king, Lords, and Commons"; that the "nature of such an *original contract* of government proves, that there is not only a power in the people, who have *inherited this freedom*, to assert their own title to it; but they are bound in duty to transmit the *same* constitution to their posterity also"; and that 1688 should not be confused with

any loose general doctrines of a right in the individual, or even in the people, to undertake for themselves, on any prevalent temporary opinions of convenience or improvement, any fundamental change in the constitution, or to fabricate a new government for themselves, and thereby to disturb the publick peace, and to unsettle the antient constitution of the kingdom.

In short, he claimed that the "antient whigs" believed, as he professed to, in an obligatory and hereditary constitution, bound by the principles of the original contract, in which there was no individual or popular right of a present generation to change it fundamentally. To the Lockean claims that 1688 indicated there were circumstances (such as James II's abuse of royal authority) which sanctioned a right to effect fundamental changes in the constitution, or to fabricate a new one, Burke answered that the "antient whigs" explicitly rejected any notion of "licentious resistance; as if *subjects* were left to *their* good-will and pleasure, when they are to *obey*, and when to *resist*". Indeed, the only circumstance in which resistance was sanctioned, was when defensive revolution was "the *only* means left for the recovery of that

antient constitution, formed by the *original contract* of the British state”, and for its future preservation. In other words, even when called “revolution”, the only justification for resistance was in order for it to effect a restoration.³⁰⁴ It is hard to see how these passages presented by Burke, could be understood other than as a complete (and rather explicit) rejection of “modern” and especially Lockean claims of a sovereign right in the individual or in the people to fashion government according to will – particularly in revolutionary circumstances – and of the interpretation of 1688 as an example of this right. Instead he articulated his general concept of sovereignty as that of the Whig tradition of government, averring that the old Whigs opposed the concept of a “moral or civil competence” in the people to alter fundamentally, or set up any “new form” of, government – insisting that they held instead that the competence for any changes in government (like regulating the succession to the crown) lay with the whole of the “body corporate of the kingdom”, as directed by the King-in-Parliament.³⁰⁵

It is instructive to see that Burke believed the same principles to be relevant not only to the British case, but also to the apparently different American constitution. The American constitution had, since its institution been used by radicals as an eminent example of their political theories. Burke did not subscribe to such views and held the American constitution to be the best possible adaptation of the principles underpinning the British constitution to the new continent. He saw it as an attempt by the Americans to fulfill the wish that had been once confided to him by Benjamin Franklin: to preserve even in independence “a security to its *antient* condition”. Burke believed that the Americans had inherited many features of the British system so that, together with the adjustments and adaptations necessary to local circumstances, a different version of the same original covenant had been

³⁰⁴ *Appeal* pp. 148, 151-152, 179-181.

³⁰⁵ *Appeal* pp. 163-164.

incubated and eventually enabled to stand on its feet. The American character had inherited some “old English good nature”, and had a political “republican education” when their internal republican government grew under the protective shadow of the British monarchy. At the time of their struggle for independence, Burke stressed the importance of their tradition of religious dissent in their upholding of freedom. But during this struggle they had also learned “order, submission to command, and a regard for great men”, all elements of republican political virtue that the Americans were bound to need in the future, since by their circumstances they lacked aristocratic or monarchic “material”. Finally, for Burke, the American success was founded on their having resisted the democratic temptation, and instead of setting up “the absurdity, that the nation should govern the nation”, formed their government “as nearly as they could, according to the model of the British constitution”.³⁰⁶

A further example of Burke putting into practice his constitutional principles was the position he took in the House of Commons debates about the preferred constitution for Canada, recently created out of the amalgamation of the province of Quebec, acquired from France in the Seven Years War, with those North American territories remaining under British rule after the independence of the thirteen colonies. There was a strong argument for creating a completely new constitution for the province, and a number of speakers in the debate proposed to do so. Burke opposed such proposals, regarding them as a “new French” style (that is to say, based on the principle of popular sovereignty) constitution for Canada. He attempted to find some compound of different constitutional and legal arrangements, including elements from the British constitution (for the British Canadians), from the

³⁰⁶ *Appeal* pp. 121-122; *Quebec* pp. 7-8. Burke described the American rebellion as their version of 1688, when “purely on the defensive” against a government that wished to break up the original contract, they restored their traditional laws and liberties. See *Appeal* pp. 122-123.

old, pre-revolutionary French constitution (for the Quebecois), and from “the law of nations” (for the authority of British government). This was because he thought the elements from traditional constitutional and legal systems, albeit dissimilar, shared common principles and traits, so that they could gradually assimilate with each other. This could not happen with the principles of the revolutionary French constitution, which “founded on principles diametrically opposed” to the British constitution, could not assimilate to it in anything.³⁰⁷

The same approach also characterized Burke’s attitude to the constitutional setting of revolutionary France. He held that the problem with the new French constitution were not only that its principles were the opposite of Britain’s constitution, but that it also contrasted with the principles of all constitutions. The revolutionary government was merely the ruler over the current population of the country. Those who in terms of both ideas and personal identification remained the true bearers of France’s ancient and sovereign constitution were the exiled members of the traditional political establishment. Therefore, he declared the French exiles to be the true “body politick” of France. With them in exile resided true France, while within the physical borders of the country there was only an usurpation.³⁰⁸

³⁰⁷ *Quebec* pp. 6-8.

³⁰⁸ *Remarks* pp. 457, 465-468; *Appeal* pp. 217-218.

Conclusion

Part I of this research has established that the treatment of John Locke's ideas was a prominent aspect of the constitutional debate of the 1790s. The employment of Locke's name and ideas was a central theme of the debate, especially so among radicals. Clearly, the importance of the Lockean inheritance stemmed from its significance to interpretations of 1688 and to the English political tradition. Almost all of the important radical texts explicitly touched on Locke and his ideas, doing so in order to dispute Burke's arguments about the nature of the English political tradition and of Whiggism. Regardless of the considerably different political outcomes they were proposing, moderate and extremist radical writers alike attempted to base their claims on Locke's authority. On the loyalist side, the picture was more diverse, but still Locke and his ideas were an important element of the discussion, with virtually all those who touched on them pointing to a dichotomy between Locke's political ideas and those of Burke.³⁰⁹

Burke's prominence within the debate of the 1790s made the argument over his views central to participants' understanding of the Lockean inheritance. The essential unanimity among radicals and loyalists about the fundamental opposition between Locke's and Burke's political ideas meant for the writers of the 1790s that only one of the two interpretations offered by these two, for 1688 and the English political tradition, could be true. The salient features of these contrasting interpretations can be illustrated by way of the four terms that have been identified as central to the 1790s discussion of the Lockean inheritance. According to the view ascribed to Locke, "contract" denoted only the social agreement between individuals creating the community; "trust"

³⁰⁹ For various radical attitudes to Locke, and the eventual retreat of many moderate reformers from Lockean arguments because of the radical political implications of these, see in Hampsher-Monk "Thelwall" pp. 10-11, and Claeys "French" p. 78.

described the relations between a people and its rulers (which thus was not a contract); "consent" was regarded as stemming from individuals and decided in the majority; natural rights were described as indefeasible. According to the view ascribed to Burke, "contract" was an inextricable socio-political agreement, in which no part could be dissolved without destroying the whole; "trust" was the government's obligation towards the constitution, not towards popular will; "consent" was expressed through established institutions, and was not an inherent political faculty of the individual or even of the majority; natural rights were transformed by the social setting. In addition to a general conflict between the ideas of Burke and Locke being perceived by the writers of the 1790s, two additional features point to the intensity that was ascribed to the conflict. The first is that the most intellectually substantial and systematic rejections of Locke's ideas were offered by loyalist authors like Tatham, Francklyn, Samuel Cooper and Bowles, who explicitly identified themselves with Burke's ideas; and, in Bowles' case at least, one that had received Burke's endorsement for some of his political writings. The second is that a small number of texts, both radical and loyalist, identified the essence of Burke's outlook in one particularly anti-Lockean idea, which can be rendered as an inter-generational political commitment. Christie, upholding every generation's "right to judge for themselves", rejected Burke's attempt to bind posterity by "*unalterable laws*" as unjust and impracticable. Cusack Smith defended Burke's attempt by observing that "[t]he very names by which we designate nations, as *Greeks, Romans, & c.* imply a unity of existence carried through successive and *connected* generations". Thus such writers seized on this issue as crucial political point, recognizing that, if accepted, it denied the Lockean interpretation of terms like trust, contract, rights and most important of all, consent. In other words, they identified as the crux of the matter, the existence of an established collective identity. If every generation was regarded as

completely sovereign, there was hardly an English people or history; if a collective political identity was accepted, this limited by definition the sovereignty of the individual and of his rights.³¹⁰

Part II of the research has established that Burke's attitude to Locke and his ideas was unfavorable. While Burke explicitly expressed public regard for Locke's reputation (mainly as the author of the *Essay*), he criticized many of the latter's ideas on human understanding and on education, as well as his writing style. Burke was also repeatedly and sometimes harshly censorious of Locke's political ideas. Burke never made a wholly favorable comment about Locke's political theory, and always added caveats to any positive expression about any of the latter's political ideas. Several of Burke's most important works, particularly the *Reflections* and the *Appeal*, contained sustained attacks on the fundamental assumptions of Locke's political theory. In two other works, the *Representation* and the *Observations* (to a lesser degree) Burke directly rejected the political principles which the parliamentary speakers to whom he was responding had ascribed to Locke's authority. Burke explicitly opposed his own (and, he maintained, Britain's traditional) constitutional view of the polity as a "politick or corporate personality", to the approach characterized by him as a "juridical" or "natural rights" ideology, that was not only distinctly Lockean, but in the context of the parliamentary debates addressed, clearly Locke's.

Regarding Burke's political ideas, this research has illustrated their anti-Lockean import. This import stemmed to a great degree from his view of opinion as "the very ground and pillar of Government, and the main spring of human action". Burke's view of the political role of opinion shaped his whole approach to political thought. It emphasized that the foundation of political authority was "in the constitution of the human mind"; it justified

³¹⁰ Christie *Letters* p. 163; [Cusak Smith] *Rights* p. 246.

the establishment of opinions by “artificial institutions”; it demonstrated that by the unstable and uncertain nature of opinion, true political theory had to accept itself as intrinsically limited and imperfect; it explained the essential fault of the searching into the origins of the commonwealth explicitly stated by the sub-title to Locke’s *Second treatise: an essay concerning the true original, extent, and end of civil government*. The structure of political society was described by Burke as consisting of opinions propping up political authority. If authority was not to resort to brute force, these opinions had to be instituted and protected. Establishing opinions, in the form of an established religion, an established aristocracy and so on, made the props supporting authority more solid. Virtue could carry out this function for some time, but in a large and complex state, the best long-term guardian of the political system was an aristocracy based on property.

Finally, this research gave Burke’s idea of sovereignty particular consideration. It established that Burke’s arguments on the nature of sovereignty refuted the Lockean definitions of “people” “trust” and “contract”, and (after having identified it as the only true foundation for theories of popular sovereignty) went on to show that Lockean “consent” too was politically unfeasible, since majority rule was not a “law of original nature”, but rather one of the “most violent fictions of positive law” ever made on the “principles of artificial incorporation”. This latter term, “artificial incorporation”, was shown to be, for Burke, the true framework of political society. In the artificial idea of people – corporation as opinion – Burke found both the origin and the function of political sovereignty. Men were obliged to abide by the rules of their traditional constitution by their having being born into, and “made” by, it. Any other approach would advance the demise of that political society. Political custom or convention, the accumulated rules of political society, were for Burke an actual component of the political sovereign. Political custom was the expression of civil society as a corporation

comprising all past and present (and future) generations, so that his sovereign, might have been said to be the historical corporate people – as he stated in his actual discussion of various constitutions.

An attempt can be now made to answer the question posed in the introduction to this dissertation. What was the relationship between the political ideas of Edmund Burke and the political ideas of the Lockean inheritance?

I believe that the view prevalent among Burke's contemporaries, which saw his political ideas as an alternative to those of Locke, was correct. Moreover, those among them who regarded Burke's principle of inter-generational commitment as the decisive element of his anti-Lockeanism, identified the significance of the issue of sovereignty in his political thought. Both the review of Burke's treatment of Locke and his political ideas, and that of Burke's own political outlook have corroborated the perception of his contemporaries. Burke's political thought should therefore be viewed as a refutation of the Lockean inheritance and of John Locke's political ideas. Throughout his career, and, particularly, in his later years, he was consciously upholding the traditional constitution of a political society as an indissoluble compact, in the face of an avowedly Lockean radicalism. For Burke the ideas of Locke endangered the "politick personality" without which political society could not survive and would eventually turn into the rule of force.

Bibliography

Listed are only the sources treated in the text or notes of the thesis.

Primary Sources

[Anonymous] *Fox against Fox !!! Or the political blossoms of the Right Hon. Charles James Fox* (1788).

[Anonymous], *Short observations on the Right Honourable Edmund Burke's Reflections* (1790) PW vol. I pp. 57-72.

[Anonymous], *An answer to Dr. Priestley's letters to the Rt. Hon. Edmund Burke in a letter to the author by a layman of the established church* (1791).

[Anonymous], *A brief reply to the observations of Ben. Bousfield, esq., on Mr. Burke's pamphlet respecting the revolution in France* (1791) PW vol. VII pp. 43-60.

[Anonymous], *Considerations on Mr. Paine's pamphlet on the Rights of man* (Edinburgh, 1791) PW vol. V pp. 79-103.

[Anonymous], *Cursory remarks on Dr. Priestley's letters to Mr. Burke, and strictures on Mr. Paine's Rights of man* (1791) PW vol. V pp. 111-130.

[Anonymous], *Remarks on Mr. Paine's pamphlet, called the Rights of man. In a letter to a friend* (1791) PW vol. V pp. 28-65.

[Anonymous], *Rights upon rights with observations upon observations* (1791) PW vol. V pp. 104-110.

[Anonymous], *The political crisis: or, a dissertation on the rights of man* (1791) PW vol. III pp. 111-170.

[Anonymous], *A bird in the hand is worth two in the bush, or a dialogue between John Frankly and George Careful, both members of the same club* (1792) PW vol. VII pp. 287-290.

[Anonymous], *A defence of the constitution of England against the libels that have been lately published on it; particularly in Paine's pamphlet on the Rights of man* (Dublin, 1792) PW vol. V pp. 2-27.

[Anonymous], *A fourth letter to Thomas Paine in answer to the second part of the Rights of man* (1792) PW vol. VI pp. 293-310.

[Anonymous], *A letter to Mr. Pain [sic], on his late publication* (1792) PW vol. VI pp. 158-171.

[Anonymous], *A rod in the brine, or a tickler for Tom Paine, in answer to his first pamphlet, entitled the Rights of man. By an Oxford graduate* (1792) PW vol. VI pp. 2-37.

[Anonymous], *An address to the Right Hon. William Pitt, on the probability of a revolution in this country* (1792) PW vol. VII pp. 173-184.

[Anonymous], *Constitutional letters, in answer to Mr. Paine's Rights of man* (1792) PW vol. VI pp. 143-157.

[Anonymous], *Principles of order and happiness under the British constitution. In a dialogue between our parish clerk and the squire* (1792).

[Anonymous], *The confederacy of kings against the freedom of the world* (1792) PW vol. III pp. 187-210.

[Anonymous], *An address to the inhabitants of Great Britain and Ireland; in reply to the principles of the author of the Rights of man* (1793) PW vol. VI pp. 379-398.

[Anonymous], *An humble address to the most high, most mighty and most puissant the sovereign people* ([Dublin], 1793).

[Anonymous], *More reasons for a reform in parliament* (1793) PW vol. IV pp. 49-56.

[Anonymous], *The two systems of the social compact, and the natural rights of man examined and refuted* (1793).

[Anonymous], *A friendly address to the reformers of England* (1794) PW vol. VIII pp. 172-186.

[Anonymous], *Citizens! The critical moment is arrived* (1794) - broadsheet.

[Anonymous], *Dialogues between a reformer and an anti-revolutionist* (1794).

[Anonymous], *No Jacobins, no levellers, no pretended friends to peace, no secret lovers of France, no wolves in sheep's clothing* [sic], *Windham and the constitution forever* (1794) - broadsheet.

[Anonymous], *The malecontent. A letter from an associator to Francis Plowden esq.* (1794).

[Anonymous], *Remarks upon the principles and views of the London corresponding society* (1795) PW vol. VIII pp. 214-219.

[Anonymous], *Loyalty necessary to self-preservation; or, an antidote against the baneful influence of republican doctrines* (1798) PW vol. VIII pp. 275-290.

[Anonymous], "Catalogue of a library of books late the property of the Rt. Hon. Ed. Burke decsd" (1813), manuscript in University of Oxford, Bodleian library, MS 16798.

[Anonymous], "Catalogue of the libraries of the late Rt. Hon. Edmund Burke, and a near relative; of the late Sir M.B. Clare, M. D.; a few books from the library of Gibbon, &c. &c." (1833) in Deane, S., *Sales catalogues of libraries of eminent persons, vol. viii – politicians* (Mansell Publishing, 1973) pp. 179-239.

Ashhurst, William Henry, *Mr. Justice Ashhurst's charge to the grand jury for the county of Middlesex* (1792) PW vol. VII, pp. 215-218.

[Atkinson, William? – attribution uncertain], *A concise sketch of the intended revolution in England; with a few hints on the obvious methods to avert it* (1794) PW vol. VIII pp. 187-196.

Barlow, Joel, *Advice to the privileged orders, in the several states of Europe, resulting from the necessity and propriety of a general revolution in the principles of government* (1792-1793, published in two parts) PW vol. III pp. 261-346.

[Belsham, William], *Historic memoir of the French revolution: to which are annexed, strictures on the Reflections of the Rt. Hon. Edmund Burke* (1791).

Belsham, William, *Examination of an appeal from the new to the old Whigs* (1792).

[Boothby, Brooke], *A letter to the Right Honourable Edmund Burke* (1791, 2nd edition) PW vol. II pp. 59-91.

Boothby, Brooke, *Observations on the Appeal from the new to the old Whigs and on Mr. Paine's Rights of man* (1792) PW vol. VI pp. 172-292.

Boucher, Jonathan, "On civil liberty, passive obedience and non resistance" in Boucher, Jonathan, *A view of the causes and consequences of the American revolt* (1797).

[Bowles, John], *A protest against T. Paine's 'Rights of man': addressed to the members of a book society* (1792, 5th edition) PW vol. VI pp. 38-63.

[Bowles, John], *Dialogues on the rights of Britons. Between a farmer, a sailor, and a manufacturer* (1792) PW vol. VII pp. 247-278

Bowles, John, *Thoughts on the origin and formation of political constitutions* (1795).

Bowles, John, *The retrospect; or a collection of tracts, published at various periods of the war. Including some reflections on the influence of Mr. Locke's theories on government, in producing that combination of anarchy and oppression, which has assumed the name of Jacobinism* (1798).

Burke, Edmund, "A vindication of natural society" (1756) WS vol. I pp. 129-184.

Burke, Edmund, "An essay towards an abridgment of the English history" (c. 1757) WS vol. I pp. 332-552.

Burke, Edmund, "A philosophical enquiry into the origin of our ideas of the sublime and beautiful" (1757) WS vol. I pp. 185-320.

Burke, Edmund, "Tracts relating to the Popery laws" (1765) WS vol. IX pp. 434-481.

Burke, Edmund, "Thoughts on the cause of the present discontents" (1770) WS vol. II pp. 241-323.

Burke, Edmund, "Speech on conciliation with America" (1775) WS vol. III pp. 102-169.

Burke, Edmund, "On education" (c. 1776) WS vol. III p. 242-246.

Burke, Edmund, "Letter to the Sheriffs of Bristol" (1777) WS vol. III pp. 288-330.

Burke, Edmund, "Address to the King" (1777) WS vol. III pp. 258-276.

Burke, Edmund, "Speech on a bill for shortening the duration of parliaments" (1780) WS vol. III pp. 588-602.

Burke, Edmund, "Speech on a motion made in the House of Commons, the 7th of May 1782 for a committee to inquire into the state of the representation of the commons in Parliament" (1782) in King, William, and Laurence, French (eds.), *The Works of the Right Honourable Edmund Burke* (1792-1827) vol. X pp. 92-108.

Burke, Edmund, "Speech on opening of impeachment" [of Warren Hastings] (section of 16 February 1788) WS vol. VI pp. 313-373.

Burke, Edmund, "Reflections on the revolution in France" (1790) in O'Brien, C.C. (ed.), *Edmund Burke, Reflections on the revolution in France* (Penguin, 1986).

Burke, Edmund, "Speeches on the Quebec government bill" (1791) in *The speeches of the Right Honourable Edmund Burke* (1816) Vol. IV pp. 1-38.

Burke, Edmund, "Letter to a member of the National Assembly" (1791) WS vol. VIII pp. 294-335.

Burke, Edmund, "An appeal from the new to the old Whigs" (1791) in King, William, and Laurence, French (eds.), *The works of the Right Honourable Edmund Burke* (1792-1827) vol. VI pp. 73-267.

Burke, Edmund, "Letter to Sir Hercules Langrishe" (1792) WS vol. IX pp. 594-639.

Burke, Edmund, "Speech on a motion for leave to bring in a bill to repeal and alter certain acts respecting religious opinions" (1792) in King, William, and Laurence, French (eds.), *The works of the Right Honourable Edmund Burke* (1792-1827) vol. X pp. 41-62.

Burke, Edmund, "Observations on the conduct of the minority" (1793) WS vol. VIII pp. 402-452.

Burke, Edmund, "Remarks on the policy of the allies" (1793) WS vol. VIII pp. 492-496.

Burke, Edmund, "Letter to William Elliot" (1795) WS vol. IX, pp. 29-45.

Burke, Edmund, "Letter to the Earl Fitzwilliam" (1795) [also known as "Fourth letter on a regicide peace"] WS vol. IX pp. 44-119.

Burke, Edmund, "Letter to a noble Lord" (1796) WS vol. IX pp. 145-186.

Burke, Edmund, "First letter on a regicide peace" (1796), WS vol. IX pp. 187-264.

Burke, Edmund, "Second letter on a regicide peace" (1796) WS vol. IX pp. 264-296.

Burke, Edmund, "Third letter on a regicide peace" (1797) WS vol. IX pp. 296-386.

Butler, John, *Brief reflections upon the liberty of the British subject; in an address to the Right Honourable Edmund Burke, occasioned by his late publication on the French revolution* (c. 1792) PW vol. III pp. 347-401.

Christie, Thomas, *Letters on the revolution of France and on the new constitution established by the National Assembly: occasioned by the publications of the Right Hon. Edmund Burke, M.P. and Alexander de Calonne, late minister of state* (1791) PW vol. I pp. 153-269.

Cooper, Samuel, *The first principles of civil and ecclesiastical government, delineated (in two parts) in letters to Dr. Priestley, occasioned by his to Mr. Burke* (1791).

Cooper, Thomas, *A reply to Mr. Burke's invective against Mr. Cooper and Mr. Watt in the House of Commons, on the 30th of April, 1792* (1792, 2nd edition).

[Cusack Smith, William], *Rights of citizens, being an examination of Mr. Paine's principles, touching government. By a Barrister* (1791) PW vol. V pp. 242-288.

[Dallas, George], *Thoughts upon our present situation, with remarks upon the policy of a war with France* (1793).

Damm, Benjamin, *An address to the public on true representation and the unity of man* [Sheffield, 1791].

Eden, William [Baron Auckland], *Some remarks on the apparent circumstances of the war in the fourth week of October 1795* (1795).

Elliot, Charles Harrington, *The republican refuted; in a series of biographical, critical and political strictures on Thomas Paine's Rights of man* (1791) PW vol. V pp. 312-362.

Erskine, Thomas, *A view of the causes and consequences of the present war with France* (1797, 35th edition).

Fox, Charles James, "Speech of 7 May 1793" in Fox, Charles James, *The speeches of the Right Honourable Charles James Fox in the House of Commons* (1815) vol. V pp. 102-117.

Fox, William, *The interest of Great Britain, respecting the French war* (1793, 3rd edition).

[Francklyn, Gilbert], *A candid inquiry into the nature of government, and the right of representation* (1792).

Freeman, Thomas Lionel, *An address to the disaffected subjects of George the third, by the grace of God, of Great Britain, & c. King, Defender of the faith, &c. &c.* (1793) PW vol. VII pp. 356-365.

[Gerrald, Joseph ? – attribution uncertain], *The address of the British convention, assembled at Edinburgh, November 19, 1793, to the people of Great Britain* (1793) PW vol. IV pp. 85-93.

Gibbon, Edward, *Memoirs of my life* (Thomas Nelson and Sons publishers, 1966).

Gifford, John, *A letter to the Hon. Thomas Erskine; containing some strictures on his view of the causes and consequences of the present war with France, eleventh edition* (1797, 2nd ed.)

Gifford, John, *A second letter to the Hon. Thomas Erskine* (1797, 2nd ed.)

Gifford, John, *A letter to the Earl of Lauderdale containing strictures on his Lordship's letters to the Peers of Scotland* (1800, new edition).

Godwin, William, *An enquiry concerning political justice* (1793).

[Gould, Thomas], *A vindication of the Right Honourable Edmund Burke's Reflections on the revolution in France, in answer to all his opponents* (1791) PW vol. VII pp. 61-120.

[Green, Thomas], *Political speculations, occasioned by the progress of a democratic party in England* (1791) PW vol. VII pp. 28-42;

[Green, Thomas], *Slight observations upon Paine's pamphlet, principally respecting his comparison of the French and English constitutions; with other incidental remarks, In three Letters from a gentleman in London to a friend in the country* (1791) PW vol. V pp. 214-241.

Green, Thomas, *An examination of the leading principles of the new system of morals, as that principle is stated and applied in Mr. Godwin's Enquiry concerning political justice, in a letter to a friend* (1799, 2nd edition) PW vol. VIII pp. 343-368.

Hamilton, William, *Letters on the principles of the French democracy, and their application and influence on the constitution and happiness of Britain and Ireland* (1792-1793, published in four parts) PW vol. VII pp. 138-158.

Hawtrey, Charles, *Various opinions of the philosophical reformers considered; particularly Pain's [sic] Rights of man* (1792) PW vol. VI pp. 64-129.

[Hervey, Frederick William], *A new friend on an old subject* (1791) PW vol. V pp. 66-78.

Hearn, Thomas, *A short view of the rise and progress of freedom in modern Europe, as connected with the causes which led to the French revolution* (1793) PW vol. VI pp. 317-378.

Hey, Richard, *Happiness and rights* (1792).

Horne, George, *A charge to the clergy of the Diocese of Norwich* (1792).

Hughes, William, *Justice to a judge. An answer to the judge's appeal to justice, in proof of the blessings enjoyed by British subjects* (1793, 2nd edition) PW vol. IV pp. 1-11.

[Hulme, Obadiah], *An historical essay on the English constitution* (1771).

Hunt, Isaac, *Rights of Englishmen an antidote to the poison now vending by the transatlantic republican Thomas Paine* (1791).

Hurdis, James, *Equality: a sermon* (1794).

[Jephson, Graham? – attribution uncertain], *Letters to Thomas Payne, in answer to his late publication on the Rights of man. By a member of the University of Cambridge* (1792) PW vol. V pp. 363-377.

[Jones, William], *One penny-worth of truth from Thomas Bull, to his brother John* (1792) PW vol. VII pp. 282-286.

King, Sophia, *Waldorf; or, the dangers of philosophy* (1798) – novel.

Locke, John, *A letter concerning toleration* (1689).

Locke, John, *Two treatises of government* (1690).

Lofft, Capel, *Remarks on the letter of the Rt. Hon. Edmund Burke, concerning the revolution in France, and the proceedings of certain societies in London, relative to that event* (1791, 2nd edition) PW II pp. 275-315.

[Macaulay, Catherine], *Observations on the Reflections of the Right Hon. Edmund Burke, on the revolution in France, in a letter to the Right Hon. Earl of Stanhope* (1790) PW vol. I pp. 121-153.

McGregor, Malcolm [pseudonym of Mason, William], *The Dean and the squire* (1782).

Mackintosh, James, *Vindiciae Gallicae. Defence of the French revolution and its English admirers, against the accusations of the Right Hon. Edmund Burke; including some strictures on the late production of Mons. de Calonne* (1791, 3rd edition) PW vol. I pp. 270-386.

More, Hannah, *Village politics. Addressed to all the mechanics, journeymen, and day labourers in Great Britain* (1793, 4th edition) PW vol. VIII pp. 2-10.

Nares, Robert, *Principles of government deduced from reason, supported by English experience, and opposed to French errors* (1792).

Oswald, John, *The government of the people; or, a sketch of a constitution for the universal commonwealth* (1793) PW vol. IV pp. 95-103.

Paine, Thomas, "Rights of man" (1791-1792 – published in two parts) in Kuklick, B. (ed.), *Thomas Paine, political writings* (Cambridge, Cambridge University Press, 1989) pp. 57-264.

Paley, William, *Equality, as consistent with the British constitution, in a dialogue between a master-manufacturer and one of his workmen* (1792) PW vol. VII pp. 227-232.

[Paley, William], *Reasons for contentment, addressed to the labouring part of the British public* (1792) PW vol. VII pp. 219-226.

[Parkinson, James], *The village association of the politics of Edley. Containing the soldier's tale; the headborough's mistake; the sailor's tale; the curate's quotations; and old Hubert's advice* (1793) PW vol. IV pp. 21-47.

Parr, Samuel, *A sequel to the printed paper lately circulated in Warwickshire by the rev. Chas. Curtis* (1792).

Parsons, Lawrence, *Thoughts on liberty and equality* (1793).

Peter, Alexander, *Strictures on the character and principles of Thomas Paine* (1792) PW vol. VI pp. 137-142.

Pigott, Charles, *Strictures upon the new political tenets of the Rt. Hon. Edmund Burke, illustrated by analogy between his different sentiments on the American and French revolutions* (1791) PW vol. II pp. 118-153.

Plowden, Francis, *Jura Anglorum. The rights of Englishmen* (1792).

Plowden, Francis, *A short history of the British Empire during the last twenty months viz. From May 1792 to the close of the year 1793* (1794).

Price, Richard, "Two tracts on civil liberty, the war with America, and the debts and finances of the Kingdom" (1778) in Thomas, D.O., *Richard Price, political writings* (Cambridge, Cambridge University Press, 1991) pp. 14-100.

Price, Richard, *A discourse on the love of our country* (1789).

Priestley, Joseph, *An essay on the first principles of government and on the nature of political civil and religious liberty* (1771, 2nd edition).

Priestley, Joseph, *Letters to the Right Honourable Edmund Burke, occasioned by his Reflections on the revolution in France, & c.* (1792, 3rd edition) PW vol. II pp. 316-385.

Reeves, John, *Thoughts on the English government. Addressed to the quiet good sense of the people of England* (1795-1800, published in four parts).

[Rivers, David], *Cursory remarks on Paine's Rights of man* (1792) PW vol. VI pp. 130-136.

[Rivers, David], *Observations on the political conduct of the Protestant dissenters* [1798].

[Robinson-Morris, Matthew, Lord Rokeby], *Considerations on the measures carrying on with respect to the British colonies in America* (1774).

Rous, George, *A letter to the Right Honourable Edmund Burke, in reply to his appeal from the new to the old Whigs* (1791).

Rous, George, *Thoughts on government: occasioned by Mr. Burke's Reflections* (1791, 4th edition) PW vol. II pp. 2-29.

[St. John, John], *A letter from a magistrate to Mr. William Rose of Whitehall, on Paine's Rights of men* [sic] (1791) PW vol. V pp. 176-213.

[Sayer, Edward], *Observations on Doctor Price's revolution sermon* (1790).

[Sayer, Edward], *Lindor and Adelaide* (1791) - novel.

[Scott, John], *A letter to the Right Hon. Edmund Burke, in reply to his 'Reflections on the revolution in France &c.'* By a member of the revolution society (1791, 3rd edition) PW vol. II pp. 154-182.

[Sewell, William], *A rejoinder to Mr. Paine's pamphlet, entitled, Rights of man; or an answer to Mr. Burke's attack on the French revolution* (1791).

Somers Cocks, John, *A short treatise upon the dreadful tendency of levelling principles* (1793) PW vol. VII pp. 346-355.

Stanhope, Charles [Earl Stanhope], *A letter from Earl Stanhope, to the Right Honourable Edmund Burke: Containing a short answer to his late speech on the French revolution* (Dublin, 1790, 3rd Edition) PW vol. I pp. 1-10.

Stuart, Daniel, *Peace and reform against war and corruption in answer to a pamphlet written by Arthur Young, esq. entitled 'The example of France, a warning to Britain'* (1794) PW vol. IV pp. 277-371.

Tatham, Edward, *Letters to the Right Honourable Edmund Burke on politics* (1791).

Thelwall, John, "Rights of nature against the usurpations of establishments, a series of letters to the people, in reply to the false principles of Burke" (1796) in Claey's, G., *The politics of English Jacobinism* (Pennsylvania State University Campus, Pennsylvania State University Press, 1995) pp. 389-500.

Thelwall, John, *Sober reflections on the seditious and inflammatory Letter of the right Hon. Edmund Burke to a noble Lord* (1796) PW pp. 329-387.

Thomson, William, "A letter to Dr. Parr", in appendix to Parr, Samuel, *A sequel to the printed paper lately circulated in Warwickshire by the rev. Chas. Curtis* (1792).

[Thrale Piozzi, Hester? – attribution uncertain], *Three warnings to John Bull before he dies. By an old acquaintance of the public* (1798) PW vol. VIII pp. 261-274.

Tomline, George, *Memoirs of the life of the Right Honourable William Pitt* (1821), 2 volumes.

Towers, Joseph, *A vindication of the political principles of Mr. Locke in answer to the objections of the rev. Dr. Tucker, Dean of Gloucester* [sic] (1782).

Towers, Joseph, *Thoughts on the commencement of a new parliament. With an appendix, containing remarks on the letter of the Right Hon. Edmund Burke, on the revolution in France* (Dublin, 1791, reprint) PW vol. I pp. 71-120.

[Towers, Joseph], *A dialogue between an associator and a well informed Englishman, on the grounds of the late associations and the commencement of a war with France* (1793).

Tucker, Josiah, *A treatise concerning civil government* (1781).

[Various Authors], *The London Corresponding Society's addresses and resolutions* [1792].

[Various Authors], *Association papers* (1793).

[Various Authors], *Citizens; we are eager to address you on the extraordinary occurrences that have recently agitated the nation* (1796).

Vincent, William, *A discourse addressed to the people of Great Britain* (1792).

White, William, *A dissertation on government. With the balance considered; or a free inquiry into the nature of the British constitution, and the probable effect of a parliamentary reform* (1792) PW vol. VII pp. 185-214.

[Williams, David], *Lessons to a young prince by an old statesman, on the present disposition in Europe to a general revolution* (1791, 6th edition) PW vol. III pp. 23-110.

Wollstonecraft, Mary, "A vindication of the rights of men" (1790, 2nd edition) in Tommaselli, S. (ed.), *Mary Wollstonecraft, A vindication of the rights of men and a vindication of the rights of woman* (Cambridge, Cambridge University Press, 1995) pp. 1-64.

Wyvil, Christopher, *A defence of Dr. Price and the reformers of England* (1792) PW vol. III pp. 211-259.

Yorke, Henry [Redhead], *Reason urged against precedent, in a letter to the people of Derby* (1793) PW vol. IV pp. 67-84.

[Yorke, Henry Redhead], *The spirit of John Locke on civil government revived by the Constitutional society of Sheffield* (printed by J. Gales, Sheffield, [1794]).

Yorke, Henry [Redhead], *Thoughts on civil government addressed to the disfranchised citizens of Sheffield* (1794) PW vol. IV pp. 229-276.

Young, Arthur, *The example of France a warning to Britain* (1794, 4th edition) PW vol. VIII pp. 57-171.

Reference and compilations

Claeys, G. (ed.), *Political writings of the 1790s* (William Pickering, 1995), 8 volumes.

Cobbett, W., and Wright, J. (eds.), *The parliamentary history of England, from the earliest period to the year 1803. From which last-mentioned epoch it is continued downwards in the work entitled, "The parliamentary debates" (1806-1820), 36 volumes.*

Cobbett, W., and Howell, T.J. (eds.), *Complete collection of state trials and proceedings for high treason and other crimes and misdemeanors from the earliest period to the present time (1809-1828), 33 volumes.*

Copeland, T.W. (general editor), *The correspondence of Edmund Burke* (Cambridge, Cambridge University Press, 1967-1978), 10 volumes.

Goldie, M. (ed.), *The reception of Locke's politics from the 1690s to the 1830s* (Pickering and Chatto, 1999), 6 volumes.

Langford, P. (general editor), *The writings and speeches of Edmund Burke* (Oxford, Clarendon Press, 1981-), 10 volumes (vols. IV and X yet to appear).

Lock, F.P., "Unpublished Burke letters 1783-1796" in *English Historical Review* 112 (1997) pp. 119-41.

Simpson, J.A., and Weiner, E.S.C. (eds.), *The Oxford English dictionary - second edition* (Oxford, Clarendon, 1998), 20 volumes.

King, William, and French Laurence (eds.), *The works of the Right Honourable Edmund Burke* (1792-1827), 8 volumes.

Fitzwilliam, Charles William, Earl Fitzwilliam and Bourke, Sir Richard (eds.), *The correspondence of the Right Honourable Edmund Burke; between the year 1744, and the period of his decease, in 1797* (1844), 4 volumes.

Secondary sources

Andrews, S., *The British periodical press and the French revolution, 1789-99* (Houndmills, Basingstoke, Hampshire, Palgrave, 2000).

Ashcraft, R., "Locke, revolution principles, and the formation of Whig ideology" in *The Historical Journal* 26 (1983) pp. 773-800.

Ashcraft, R., *Revolutionary politics and Locke's Two treatises of government* (Princeton, Princeton University Press, 1986).

Blakemore, S., *Burke and the fall of language* (University Press of New England, 1988)

Blakemore, S., *Intertextual war* (Associated University Press, 1997).

Boulton, J.T., *The language of politics* (Routledge, 1963).

Bourke, R., "Sovereignty, opinion and revolution in Edmund Burke" in *History of European Ideas* 25 (1999) pp. 99-120.

Bourke, R., "Edmund Burke and enlightenment sociability: justice, honour and the principles of government" in *History of Political Thought* 21 (2000) pp. 632-656.

Brown, P.A., *The French revolution in English history* (Frank Cass, 1965 reissue).

Bryant, D.C., *Edmund Burke and his literary friends* (St. Louis, Washington University Studies – New Series, 1939).

Butler, M. (ed.), *Burke, Paine, Godwin and the revolution controversy* (Cambridge, Cambridge University Press, 1984).

Cameron, D., *The social thought of Rousseau and Burke* (Toronto, University of Toronto Press, 1973).

Canavan, F., *The political reason of Edmund Burke* (Durham N. C., Duke University Press, 1960)

Canavan, F., *The political economy of Edmund Burke* (New-York, Fordham University Press, 1995).

Claeys, G., "The French revolution debate and British political thought" in *History of Political Thought* 11 (1990) pp. 59-80.

- Claeys, G., *The politics of English Jacobinism: writings of John Thelwall* (Pennsylvania State University Park, Pennsylvania State University Press, 1995).
- Clark, J.C.D. (ed.), *Edmund Burke, Reflections on the revolution in France – a critical edition* (Stanford, Stanford University Press, 2001).
- Cobban, A., *Edmund Burke and the revolt against the eighteenth century* (George Allen & Unwin, 1929 – reprint by AMS, 1978).
- Conniff, J., *The useful cobbler: Edmund Burke and the politics of progress* (Albany, State University of New-York press, 1994).
- Copeland, T.W., *Edmund Burke - six essays* (Jonathan Cape, 1950).
- Dickinson, H.T., *Liberty and property: political ideology in eighteenth-century Britain* (Methuen, 1977).
- Dickinson, H.T., *The politics of the people in eighteenth-century Britain* (Macmillan, 1994).
- Dinwiddy, J., "Interpretations of anti-Jacobinism" in Philp, M. (ed.), *The French revolution and British popular politics* (Cambridge, Cambridge University Press, 1991) pp. 38-49
- Dinwiddy, J.R., "James Mill on Burke's doctrine of prescription" in Dinwiddy, J.R., *Radicalism and reform in Britain* (Hambledon, 1992).
- Dreyer, F.A., *Burke's politics, a study in Whig orthodoxy* (Waterloo, Ontario, Wilfrid Laurier University Press, 1979).
- Dunn, J., "The politics of Locke in England and America in the eighteenth century" in Yolton, J.W. (ed.), *John Locke: problems and perspectives* (Cambridge, Cambridge University Press, 1969) pp. 45-80.
- Franklin, J.H., *John Locke and the theory of sovereignty* (Cambridge, Cambridge University Press, 1978).
- Freeman, M., *Edmund Burke and the critique of political radicalism* (Oxford, Blackwell, 1980).
- Godfrey, R., *James Gillray, the art of caricature* (Tate Publishing, 2001) .
- Grenby, M.O., *The anti-Jacobin novel* (Cambridge, Cambridge University Press, 2001).
- Gunn, J.A.W., *Beyond liberty and property* (Montreal, McGill-Queen's University Press, 1983).
- Hampsher-Monk, I., "John Thelwall and the eighteenth-century radical response to political economy" in *The Historical Journal* 34 (1991) pp. 1-20
- Hampsher-Monk, I., *A history of modern political thought* (Oxford, Blackwell, 1992).
- Harris, R.W., *Political ideas 1760-1792* (Gollancz, 1963).
- Hart, H. (ed.), "Extracts from Mr. Burke's table talk, at Crewe hall, written down by Ms. [Frances Ann] Crewe" [1854] in *The Burke Newsletter* 5 (1963-64) pp. 276-292.

- Hearnshaw, F.J.C., *The social and political ideas of some representative thinkers of the revolutionary era* (G.G. Harrap, 1931).
- Kramnick, I., "Republican revisionism revisited" in *The American Historical Review* 87 (1982) pp. 629-664.
- Kramnick, I., *Republicanism and bourgeois radicalism* (Ithaca, Cornell University Press, 1990).
- Laslett, P. (ed.) *John Locke, Two treatises of government* (Cambridge, Cambridge University Press, 1988).
- Lock, F.P., *Burke's Reflections on the revolution in France* (George Allen & Unwin, 1985).
- Lockwood, S., "Introduction" and notes in Lockwood, S. (ed.), *John Fortescue, On the laws and governance of England* (Cambridge, Cambridge University Press, 1997).
- Love, W.D., "'Meaning' in the history of conflicting interpretations of Burke" in *The Burke Newsletter* 7 (1965-1966) pp. 526-538;
- Lucas, P., "On Edmund Burke's doctrine of prescription; or, an appeal from the new to the old lawyers" in *The Historical Journal* 11 (1968) pp. 35-63.
- Marshall, P.J., "Introduction" WS vol. VI pp. 1-36.
- Montluzin, E.L. de, *The anti-Jacobins 1798-1800* (Macmillan, 1988).
- Montluzin, E.L. de, "Attributions of authorship in the *British Critic* during the editorial regime of Robert Nares, 1793-1813" in *Studies in Bibliography* 51 (1998) pp. 241-259.
- Mori, J., *Britain in the age of the French revolution 1785-1820* (Longman, 2000).
- Mori, J., "Languages of loyalism: patriotism, nationhood and the state in the 1790s" in *English Historical Review* 118 (2003) pp. 33-58.
- O'Brien, C.C., *The great melody: a thematic biography of Edmund Burke* (Chicago, Chicago University Press, 1992).
- Ogden, H.V.S., "The state of nature and the decline of Lockian political thought in England, 1760-1800" in *The American Historical Review* 46 (1940) pp. 21-44.
- O'Gorman, F., *Edmund Burke, his political philosophy* (George Allen & Unwin, 1973).
- Pagano, F. (ed.), *Edmund Burke, A vindication of natural society* (Indianapolis, Liberty Fund, 1982).
- Pagano, F., "Burke's view of the evils of political theory: or, *A vindication of natural society*" in *Polity* 17 (1985) pp. 446-462.
- Pappin III, J.L., "Edmund Burke's philosophy of rights" in Crowe, I. (ed.), *The enduring Edmund Burke* (Wilmington, Delaware, Intercollegiate Studies Institute, 1997) pp. 115-127.
- Parkin, C., *The moral basis of Burke's political thought* (Cambridge, Cambridge University Press, 1956).

- Philp, M. (ed.), *The French revolution and British popular politics* (Cambridge, Cambridge University Press, 1991).
- Pocock, J.G.A., *Politics, language and time* (Methuen, 1972).
- Pocock, J.G.A., *Virtue, commerce and history* (Cambridge, Cambridge University Press, 1985).
- Pocock, J.G.A., *The ancient constitution and the feudal law* (Cambridge, Cambridge University Press, 1987 reissue).
- Pocock, J.G.A., "Introduction" and notes in Pocock, J.G.A. (ed.), *Edmund Burke, Reflections on the revolution in France* (Indianapolis, Hackett Publishing Company, 1987).
- Rothbard, M., "A note on Burke's *A vindication of natural society*" in *Journal of the History of Ideas* 19 (1958) pp. 114-118.
- Sack, J.J., *From Jacobite to conservative* (Cambridge, Cambridge University Press, 1993).
- Schochet, G.J., *Patriarchalism in political thought* (Oxford, Blackwell, 1975).
- Schofield, T.P., "Conservative political thought in Britain in response to the French revolution" in *The Historical Journal* 29 (1986) pp. 601-622.
- Stanlis, P.J., "Review of The language of politics in the age of Wilkes and Burke by James T. Boulton" in *The Burke Newsletter* 5 (combined issue, Spring-Summer 1964) pp. 340-345.
- Stanlis, P.J., *Edmund Burke and the natural law* (Ann Arbor, Michigan, University of Michigan Press, 1965).
- Strauss, L., *Natural right and history* (Chicago, University of Chicago Press, 1953).
- Wilkins, B.T., *The problem of Burke's political philosophy* (Oxford, Clarendon, 1967).
- Wood, N., "Burke on power" in *The Burke Newsletter* 5 (combined issue, Spring-Summer 1964) pp. 311-326.

